

Title 10. Utah Municipal Code

Chapter 1 General Provisions

Part 1 Short Title, Definitions, Repealer, and Scope of Code

10-1-101 Short title.

This act shall be known and may be cited as the "Utah Municipal Code." In enacting this code, it is the legislative intent to repeal only those provisions of Utah law set forth in Section 10-1-114. It is the legislative intent to review, modernize and incorporate into this code in later sessions other provisions of Utah law relating to municipalities not included in this act. Provisions of Utah law not specifically repealed shall continue in effect.

Enacted by Chapter 48, 1977 General Session

10-1-102 Effective date.

This act shall become effective July 1, 1977.

Enacted by Chapter 48, 1977 General Session

10-1-103 Construction.

The powers herein delegated to any municipality shall be liberally construed to permit the municipality to exercise the powers granted by this act except in cases clearly contrary to the intent of the law.

Enacted by Chapter 48, 1977 General Session

10-1-104 Definitions.

As used in this title:

- (1) "City" means a municipality that is classified by population as a city of the first class, a city of the second class, a city of the third class, a city of the fourth class, or a city of the fifth class, under Section 10-2-301.
- (2) "Contiguous" means:
 - (a) if used to described an area, continuous, uninterrupted, and without an island of territory not included as part of the area; and
 - (b) if used to describe an area's relationship to another area, sharing a common boundary.
- (3) "Governing body" means collectively the legislative body and the executive of any municipality. Unless otherwise provided:
 - (a) in a city of the first or second class, the governing body is the city commission;
 - (b) in a city of the third, fourth, or fifth class, the governing body is the city council;
 - (c) in a town, the governing body is the town council; and
 - (d) in a metro township, the governing body is the metro township council.
- (4) "Municipal" means of or relating to a municipality.
- (5)
 - (a) "Municipality" means:

- (i) a city of the first class, city of the second class, city of the third class, city of the fourth class, city of the fifth class;
 - (ii) a town, as classified in Section 10-2-301; or
 - (iii) a metro township as that term is defined in Section 10-2a-403 unless the term is used in the context of authorizing, governing, or otherwise regulating the provision of municipal services.
- (6) "Peninsula," when used to describe an unincorporated area, means an area surrounded on more than 1/2 of its boundary distance, but not completely, by incorporated territory and situated so that the length of a line drawn across the unincorporated area from an incorporated area to an incorporated area on the opposite side shall be less than 25% of the total aggregate boundaries of the unincorporated area.
- (7) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.
- (8) "Provisions of law" shall include other statutes of the state of Utah and ordinances, rules, and regulations properly adopted by any municipality unless the construction is clearly contrary to the intent of state law.
- (9) "Recorder," unless clearly inapplicable, includes and applies to a town clerk.
- (10) "Town" means a municipality classified by population as a town under Section 10-2-301.
- (11) "Unincorporated" means not within a municipality.

Amended by Chapter 352, 2015 General Session

10-1-105 No changes intended.

Unless otherwise specifically provided in this act, the provisions of this act may not operate in any way to affect the property or contract rights or other actions which may exist in favor of or against any municipality. Nor shall this act operate in any way to change or affect any ordinance, order or resolution in force in any municipality and such ordinances, orders and resolutions which are not repugnant to law, shall continue in full force and effect until repealed or amended.

Amended by Chapter 378, 2010 General Session

10-1-106 Scope of act.

This act shall apply to all municipalities incorporated or existing under the law of the State of Utah except as otherwise specifically excepted by the home rule provisions of Article XI, Section 5 of the Constitution of the State of Utah.

Enacted by Chapter 48, 1977 General Session

10-1-107 Municipalities.

All municipalities which have been incorporated under any previous act of the United States or of the State of Utah shall be treated as properly incorporated under this act.

Enacted by Chapter 48, 1977 General Session

10-1-108 Cumulative powers -- Powers not in derogation of state agencies.

The provisions of this act or any other act not expressly repealed by Section 10-1-114 shall be considered as an alternative or additional power and not as a limitation on any other power granted to or possessed by municipalities. The provisions of this act may not be considered as impairing,

altering, modifying or repealing any of the jurisdiction or powers possessed by any department, division, commission, board, or office of state government.

Amended by Chapter 378, 2010 General Session

10-1-109 Saving clause.

The repeal of the titles, chapters and sections specified in Section 10-1-114 do not:

- (1) affect suits pending or rights existing immediately prior to the effective date of this act;
- (2) impair, avoid, or affect any grant or conveyance made or right acquired or cause of action now existing under any repealed act or amendment thereto; or
- (3) affect or impair the validity of any bonds or other obligation issued or sold prior to the effective date of this act.

The repeal of any validating act or part thereof does not avoid the effect of the validation.

No act repealed by Section 10-1-114 shall repeal any act or part thereof which embraces the same or similar subject matter as the act repealed.

Amended by Chapter 378, 2010 General Session

10-1-110 Continuation of prior law.

The provisions of this act insofar as they are the same or substantially the same as those of any prior statute shall be construed as a continuation of the prior statute and not as a new enactment. If any other statutory reference is made to an act of the Legislature or a section of such an act, which is continued in this act, the reference shall be held to refer to the act or section thereof so continued in this act.

Amended by Chapter 4, 1993 General Session

10-1-111 Existing indebtedness.

Any bond or other evidence of indebtedness issued under the provisions of any act repealed by this act which is outstanding and unpaid as of July 1, 1977, shall be amortized and retired by taxation or revenue in the manner provided by the act under which such indebtedness was incurred, notwithstanding repeal or change of the act.

Enacted by Chapter 48, 1977 General Session

10-1-112 Headings do not limit sections.

Title, chapter, part, or section headings contained herein may not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter, part or section of this act.

Amended by Chapter 378, 2010 General Session

10-1-113 Severability clause.

If any chapter, part, section, paragraph or subsection of this act, or the application thereof is held to be invalid, the remainder of this act is not affected thereby.

Amended by Chapter 378, 2010 General Session

10-1-114 Repealer.

Title 10, Chapter 1, General Provisions; Chapter 2, Classification, Boundaries, Consolidation, and Dissolution of Municipalities; Chapter 3, Municipal Government; Chapter 5, Uniform Fiscal Procedures Act for Utah Towns; and Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, are repealed, except as provided in Section 10-1-115.

Amended by Chapter 352, 2015 General Session

10-1-115 Legislation enacted by Legislature.

Nothing in this act shall be construed to repeal any section of the various laws of which this act is comprised when the section is the subject of an amendment or new legislation enacted by this 42nd session of the Utah legislature and which becomes law. Furthermore, it is the intent of the legislature that the corresponding sections of this act shall be construed with such amended sections so as to give effect to the amendment as if it were made a part of this act.

Enacted by Chapter 48, 1977 General Session

10-1-118 Changing the name of a municipality.

- (1) A municipality may change its name as provided in this section.
- (2) To initiate a name change, the legislative body of a municipality shall:
 - (a) adopt an ordinance or resolution approving a name change; and
 - (b) file with the lieutenant governor a copy of a notice of an impending name change, as defined in Section 67-1a-6.7, that meets the requirements of Subsection 67-1a-6.7(3).
- (3) Upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7, the municipal legislative body shall:
 - (a) if the municipality is located within the boundary of a single county, submit to the recorder of that county:
 - (i) the original:
 - (A) notice of an impending name change; and
 - (B) certificate of name change; and
 - (ii) a certified copy of the ordinance or resolution approving the name change; or
 - (b) if the municipality is located within the boundaries of more than a single county:
 - (i) submit to the recorder of one of those counties:
 - (A) the original of the documents listed in Subsections (3)(a)(i)(A) and (B); and
 - (B) a certified copy of the ordinance or resolution approving the name change; and
 - (ii) submit to the recorder of each other county:
 - (A) a certified copy of the documents described in Subsections (3)(a)(i)(A) and (B); and
 - (B) a certified copy of the ordinance or resolution approving the name change.
- (4)
 - (a) The name change becomes effective upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7.
 - (b) Notwithstanding Subsection (4)(a), the municipality may not operate under the new name until the documents listed in Subsection (3) are recorded in the office of the recorder of each county in which the municipality is located.

Amended by Chapter 350, 2009 General Session

10-1-119 Inventory of competitive activities.

- (1) As used in this section:
 - (a) "Applicable city" means:
 - (i) on and after July 1, 2009, a city of the first class; and
 - (ii) on and after July 1, 2010, a city of the first or second class.
 - (b) "Competitive activity" means an activity engaged in by a city or an entity created by the city by which the city or an entity created by the city provides a good or service that is substantially similar to a good or service that is provided by a person:
 - (i) who is not an entity of the federal government, state government, or a political subdivision of the state; and
 - (ii) within the boundary of the county in which the city is located.
 - (c)
 - (i) Subject to Subsection (1)(c)(ii), "entity created by the city" includes:
 - (A) an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, in which the city participates; and
 - (B) a special service district created under Title 17D, Chapter 1, Special Service District Act.
 - (ii) "Entity created by the city" does not include a local district created by a city under Title 17B, Limited Purpose Local Government Entities - Local Districts.
- (2)
 - (a) The governing body of an applicable city shall create an inventory of activities of the city or an entity created by the city to:
 - (i) classify whether an activity is a competitive activity; and
 - (ii) identify efforts that have been made to privatize aspects of the activity.
 - (b) An applicable city shall comply with this section by no later than:
 - (i) June 30, 2010, if the applicable city is a city of the first class; and
 - (ii) June 30, 2011, if the applicable city is a city of the second class.
- (3) The governing body of an applicable city shall update the inventory created under this section at least every two years.
- (4) An applicable city shall:
 - (a) provide a copy of the inventory and an update to the inventory to the Free Market Protection and Privatization Board created in Title 63I, Chapter 4a, Free Market Protection and Privatization Board Act; and
 - (b) make the inventory available to the public through electronic means.

Amended by Chapter 189, 2014 General Session

Part 2

Municipalities

10-1-201 Municipalities as political subdivisions of the state.

Municipalities shall be political subdivisions of the State of Utah, municipal corporations, and bodies politic with perpetual existence unless disincorporated according to law.

Enacted by Chapter 48, 1977 General Session

10-1-202 Power to sue, contract, adopt municipal name and seal.

Municipalities may sue and be sued, enter into contracts and by ordinance adopt a municipal name and seal which may be changed from time to time.

Enacted by Chapter 48, 1977 General Session

10-1-203 License fees and taxes -- Application information to be transmitted to the county assessor.

(1) As used in this section:

- (a) "Business" means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition.
- (b) "Telecommunications provider" is as defined in Section 10-1-402.
- (c) "Telecommunications tax or fee" is as defined in Section 10-1-402.

(2) Except as provided in Subsections (3) through (5), the legislative body of a municipality may license for the purpose of regulation and revenue any business within the limits of the municipality and may regulate that business by ordinance.

(3) (a) The legislative body of a municipality may raise revenue by levying and collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal Energy Sales and Use Tax Act.

- (b) (i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined in Subsection 10-1-303(6), that is in effect on July 1, 1997, or a future franchise.
- (ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1, 1997, or a future franchise shall remain in full force and effect.
- (c) A municipality that collects a contractual franchise fee pursuant to a franchise agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

- (d) (i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain a provision that:
 - (A) requires the energy supplier by agreement to pay a contractual franchise fee that is otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and
 - (B) imposes the contractual franchise fee on or after the day on which Part 3, Municipal Energy Sales and Use Tax Act is:
 - (I) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-305 is reduced; and
 - (II) is not superseded by a law imposing a substantially equivalent tax.
- (ii) A municipality may not charge a contractual franchise fee under the provisions permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise fee or a tax on all energy suppliers.

(4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a municipality may raise revenue by levying and providing for the collection of a municipal telecommunications license tax as provided in Part 4, Municipal Telecommunications License Tax Act.

- (b) A municipality may not levy or collect a telecommunications tax or fee on a telecommunications provider except as provided in Part 4, Municipal Telecommunications License Tax Act.

- (5)
 - (a)
 - (i) The legislative body of a municipality may by ordinance raise revenue by levying and collecting a license fee or tax on:
 - (A) a parking service business in an amount that is less than or equal to:
 - (I) \$1 per vehicle that parks at the parking service business; or
 - (II) 2% of the gross receipts of the parking service business;
 - (B) a public assembly or other related facility in an amount that is less than or equal to \$5 per ticket purchased from the public assembly or other related facility; and
 - (C) subject to the limitations of Subsections (5)(c) and (d):
 - (I) a business that causes disproportionate costs of municipal services; or
 - (II) a purchaser from a business for which the municipality provides an enhanced level of municipal services.
 - (ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to levy or collect a license fee or tax on a public assembly or other related facility owned and operated by another political subdivision other than a community development and renewal agency without the written consent of the other political subdivision.
 - (b) As used in this Subsection (5):
 - (i) "Municipal services" includes:
 - (A) public utilities; and
 - (B) services for:
 - (I) police;
 - (II) fire;
 - (III) storm water runoff;
 - (IV) traffic control;
 - (V) parking;
 - (VI) transportation;
 - (VII) beautification; or
 - (VIII) snow removal.
 - (ii) "Parking service business" means a business:
 - (A) that primarily provides off-street parking services for a public facility that is wholly or partially funded by public money;
 - (B) that provides parking for one or more vehicles; and
 - (C) that charges a fee for parking.
 - (iii) "Public assembly or other related facility" means an assembly facility that:
 - (A) is wholly or partially funded by public money;
 - (B) is operated by a business; and
 - (C) requires a person attending an event at the assembly facility to purchase a ticket.
 - (c)
 - (i) Before the legislative body of a municipality imposes a license fee on a business that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the legislative body of the municipality shall adopt an ordinance defining for purposes of the tax under Subsection (5)(a)(i)(C)(I):
 - (A) the costs that constitute disproportionate costs; and

- (B) the amounts that are reasonably related to the costs of the municipal services provided by the municipality.
- (ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to the costs of the municipal services provided by the municipality.
- (d)
 - (i) Before the legislative body of a municipality imposes a license fee on a purchaser from a business for which it provides an enhanced level of municipal services under Subsection (5)(a)(i)(C)(II), the legislative body of the municipality shall adopt an ordinance defining for purposes of the fee under Subsection (5)(a)(i)(C)(II):
 - (A) the level of municipal services that constitutes the basic level of municipal services in the municipality; and
 - (B) the amounts that are reasonably related to the costs of providing an enhanced level of municipal services in the municipality.
 - (ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to the costs of providing an enhanced level of the municipal services.
- (6) All license fees and taxes shall be uniform in respect to the class upon which they are imposed.
- (7) The municipality shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application.
- (8) If challenged in court, an ordinance enacted by a municipality before January 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld unless the business license fee is found to impose an unreasonable burden on the fee payer.

Amended by Chapter 189, 2014 General Session

10-1-203.5 Disproportionate rental fee -- Good landlord training program -- Fee reduction.

- (1) As used in this section:
 - (a) "Business" means the rental of one or more residential units within a municipality.
 - (b) "Disproportionate rental fee" means a fee adopted by a municipality to recover its disproportionate costs of providing municipal services to residential rental units compared to similarly-situated owner-occupied housing.
 - (c) "Disproportionate rental fee reduction" means a reduction of a disproportionate rental fee as a condition of complying with the requirements of a good landlord training program.
 - (d) "Exempt business" means the rental of a residential unit within a single structure that contains:
 - (i) no more than four residential units; and
 - (ii) one unit occupied by the owner.
 - (e) "Exempt landlord" means a residential landlord who demonstrates to a municipality:
 - (i) completion of any live good landlord training program offered by any other Utah city that offers a good landlord program;
 - (ii) that the residential landlord has a current professional designation of "property manager"; or
 - (iii) compliance with a requirement described in Subsection (4).
 - (f) "Good landlord training program" means a program offered by a municipality to encourage business practices that are designed to reduce the disproportionate cost of municipal services to residential rental units by offering a disproportionate rental fee reduction for any landlord who:
 - (i)
 - (A) completes a landlord training program provided by the municipality; or
 - (B) is an exempt landlord;

- (ii) implements measures to reduce crime in rental housing as specified in a municipal ordinance or policy; and
- (iii) operates and manages rental housing in accordance with an applicable municipal ordinance.
- (g) "Municipal services" means:
 - (i) public utilities;
 - (ii) police;
 - (iii) fire;
 - (iv) code enforcement;
 - (v) storm water runoff;
 - (vi) traffic control;
 - (vii) parking;
 - (viii) transportation;
 - (ix) beautification; or
 - (x) snow removal.
- (h) "Municipal services study" means a study of the cost of all municipal services to rental housing that:
 - (i) are reasonably attributable to the rental housing; and
 - (ii) exceed the municipality's cost to serve similarly-situated, owner-occupied housing.
- (2) The legislative body of a municipality may charge and collect a disproportionate rental fee on a business that causes disproportionate costs to municipal services if the municipality:
 - (a) has performed a municipal services study; and
 - (b) adopts a disproportionate rental fee that does not exceed the amount that is justified by the municipal services study on a per residential rental unit basis.
- (3) A municipality may not:
 - (a) impose a disproportionate rental fee on an exempt business;
 - (b) require a landlord to deny tenancy to an individual released from probation or parole whose conviction date occurred more than four years before the date of tenancy; or
 - (c) without cause and notice, require a landlord to submit to a random building inspection.
- (4) In addition to a requirement or qualification described in Subsection (1)(e), a municipality may recognize a landlord training described in its ordinance.
- (5)
 - (a) If a municipality adopts a good landlord program, the municipality shall provide an appeal procedure affording due process of law to a landlord who is denied a disproportionate rental fee reduction.
 - (b) A municipality may not adopt a new disproportionate rental fee unless the municipality provides a disproportionate rental fee reduction.

Enacted by Chapter 289, 2012 General Session

Part 3

Municipal Energy Sales and Use Tax Act

10-1-301 Title.

This part shall be known as the "Municipal Energy Sales and Use Tax Act."

Enacted by Chapter 280, 1996 General Session

10-1-302 Purpose and intent.

The Legislature finds that:

- (1) the energy industry has previously been highly regulated and monopolistic;
- (2) municipalities have historically raised town or city, respectively, general fund revenues by collecting franchise and business license revenues from the energy industry;
- (3) substantial restructuring of the energy industry has created an opportunity for increased competition within the energy industry;
- (4) the restructuring of the energy industry has diminished the effectiveness and fairness of the revenues collected by municipalities;
- (5) to provide for a stable revenue source for municipalities and to create a more competitive environment for the energy industry, it is necessary to enact taxing authority for municipalities that accomplishes those goals; and
- (6) this part does not alter or affect the municipalities' authority to grant or regulate franchises, or to control municipal streets, highways, or other property.

Amended by Chapter 176, 2014 General Session

10-1-303 Definitions.

As used in this part:

- (1) "Commission" means the State Tax Commission.
- (2) "Contractual franchise fee" means:
 - (a) a fee:
 - (i) provided for in a franchise agreement; and
 - (ii) that is consideration for the franchise agreement; or
 - (b)
 - (i) a fee similar to Subsection (2)(a); or
 - (ii) any combination of Subsections (2)(a) and (b).
- (3)
 - (a) "Delivered value" means the fair market value of the taxable energy delivered for sale or use in the municipality and includes:
 - (i) the value of the energy itself; and
 - (ii) any transportation, freight, customer demand charges, services charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the municipality.
 - (b) "Delivered value" does not include the amount of a tax paid under:
 - (i) Title 59, Chapter 12, Sales and Use Tax Act; or
 - (ii) this part.
- (4) "De minimis amount" means an amount of taxable energy that does not exceed the greater of:
 - (a) 5% of the energy supplier's estimated total Utah gross receipts from sales of property or services; or
 - (b) \$10,000.
- (5) "Energy supplier" means a person supplying taxable energy, except that the commission may by rule exclude from this definition a person supplying a de minimis amount of taxable energy.
- (6) "Franchise agreement" means a franchise or an ordinance, contract, or agreement granting a franchise.
- (7) "Franchise tax" means:

- (a) a franchise tax;
 - (b) a tax similar to a franchise tax; or
 - (c) any combination of Subsections (7)(a) and (b).
- (8) "Person" is as defined in Section 59-12-102.
- (9) "Taxable energy" means gas and electricity.

Amended by Chapter 142, 2010 General Session

10-1-304 Municipality and military installation development authority may levy tax -- Rate -- Imposition or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Exemptions.

- (1)
- (a) Except as provided in Subsections (4) and (5), a municipality may levy a municipal energy sales and use tax on the sale or use of taxable energy within the municipality:
 - (i) by ordinance as provided in Section 10-1-305; and
 - (ii) of up to 6% of the delivered value of the taxable energy.
 - (b) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may levy a municipal energy sales and use tax under this part within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.
- (2) A municipal energy sales and use tax imposed under this part may be in addition to any sales and use tax imposed by the municipality under Title 59, Chapter 12, Sales and Use Tax Act.
- (3)
- (a) For purposes of this Subsection (3):
 - (i) "Annexation" means an annexation to a municipality under Chapter 2, Part 4, Annexation.
 - (ii) "Annexing area" means an area that is annexed into a municipality.
 - (b)
 - (i) If, on or after May 1, 2000, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:
 - (A) on the first day of a calendar quarter; and
 - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b)(ii) from the municipality.
 - (ii) The notice described in Subsection (3)(b)(i)(B) shall state:
 - (A) that the city or town will enact or repeal a tax or change the rate of a tax under this part;
 - (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);
 - (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and
 - (D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(ii)(A), the new rate of the tax.
 - (c)
 - (i) If, for an annexation that occurs on or after May 1, 2000, the annexation will result in a change in the rate of a tax under this part for an annexing area, the change shall take effect:
 - (A) on the first day of a calendar quarter; and
 - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.
 - (ii) The notice described in Subsection (3)(c)(i)(B) shall state:
 - (A) that the annexation described in Subsection (3)(c)(i) will result in a change in the rate of a tax under this part for the annexing area;

- (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);
- (C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and
- (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

- (4)
 - (a) Subject to Subsection (4)(b), a sale or use of electricity within a municipality is exempt from the tax authorized by this section if the sale or use is made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new source of alternative energy, as defined in Section 59-12-102, as designated in the tariff by the Public Service Commission of Utah.
 - (b) The exemption under Subsection (4)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection (4)(a) that exceeds the tariff rate under the tariff described in Subsection (4)(a) that the customer would have paid absent the tariff.
- (5)
 - (a) A municipality may not levy a municipal energy sales and use tax within any portion of the municipality that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act.
 - (b) Subsection (5)(a) does not apply to the military installation development authority's levy of a municipal energy sales and use tax.

Amended by Chapter 410, 2012 General Session

10-1-305 Municipal energy sales and use tax ordinance provisions.

Each municipal energy sales and use tax ordinance under Subsection 10-1-304(1) shall include:

- (1) a provision imposing a tax on every sale or use of taxable energy made within a municipality at a rate determined by the municipality that is up to 6% of the delivered value of the taxable energy;
- (2) provisions substantially the same as those required by Title 59, Chapter 12, Part 1, Tax Collection, as they relate to sales and use tax, except that:
 - (a) the tax shall be calculated on the delivered value of the taxable energy to the consumer;
 - (b) an exemption is not allowed from a tax imposed under this part for the sale or use of taxable energy that is exempt from the state sales and use tax under Title 59, Chapter 12, Part 1, Tax Collection, except that the municipality shall include in its ordinance an exemption for:
 - (i) the sales and use of aviation fuel, motor fuel, or special fuel subject to taxation under Title 59, Chapter 13, Motor and Special Fuel Tax Act;
 - (ii) the sales and use of taxable energy that the municipality is prohibited from taxing under federal law or the Constitution of the United States or the Utah Constitution;
 - (iii) the sales and use of taxable energy purchased or stored in the state for resale;
 - (iv) the sales or use of taxable energy to a person if the primary use is for use in compounding or producing taxable energy or a fuel subject to taxation under Title 59, Chapter 13, Motor and Special Fuel Tax Act;
 - (v) taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the state, except taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase;
 - (vi) the sales or use of taxable energy for any purpose other than use as a fuel or energy; and
 - (vii) the sale of taxable energy for use outside a municipality imposing a municipality energy sales and use tax;

- (c) the ordinance may provide for an exemption from the municipal energy sales and use tax under this part for customers who, as of July 1, 1997, were being supplied electrical energy by a supplier other than the municipality if:
 - (i) the municipality is a generator of electrical energy for customers within its borders; and
 - (ii) the municipality is unable to generate electrical energy for the customer;
- (d) the name of the municipality as the taxing agency shall be substituted for that of the state when necessary for purposes of this part; and
- (e) an additional license to collect the tax is not required if one has been issued under Section 59-12-106;
- (3) a provision that, on or before the effective date of the ordinance, the municipality shall enter into a contract with the commission to have the commission perform all functions related to the administration or operation of the ordinance, except that a municipality may collect the municipal energy sales and use tax directly as provided in Subsection 10-1-307(3);
- (4) a provision that:
 - (a) except as provided under Subsection (4)(b), the sale, storage, use, or other consumption of taxable energy is exempt from the tax due under the ordinance if the delivered value of the taxable energy has been subject to a municipal energy sales or use tax under an ordinance enacted in accordance with this part by another municipality in this state; and
 - (b) the municipality shall be paid the difference between the tax paid to another municipality as described in this section and the tax that would otherwise be due under the ordinance if the tax due under the ordinance exceeds the tax paid to another municipality; and
- (5) a provision providing a credit against the tax in the amount of a contractual franchise fee paid if:
 - (a) an energy supplier pays a contractual franchise fee to a municipality pursuant to a franchise agreement in effect on July 1, 1997;
 - (b) the contractual franchise fee is passed through by the energy supplier to a taxpayer as a separately itemized charge; and
 - (c) the energy supplier has accepted the franchise; and
- (6) a provision providing that the ordinance adopts by reference any amendments to the provisions of Title 59, Chapter 12, Part 1, Tax Collection, that relate to levying or collecting a municipal energy sales and use tax.

Amended by Chapter 180, 1998 General Session

10-1-306 Rules for delivered value and point of sale.

- (1) The delivered value of taxable energy under this part shall be established pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) The rules made by the commission under Subsection (1):
 - (a) shall provide that an arm's length sales price for taxable energy sold or used by a taxpayer in the municipality is the delivered value, unless the sales price does not include some portion of the taxable energy or component of delivered value;
 - (b) shall establish one or more default methods for determining the delivered value for each customer class one time per calendar year on or before January 31 for taxable energy when the commission determines that the sales price does not accurately reflect delivered value; and
 - (c) shall provide that for purposes of determining the point of sale or use of taxable energy the location of the meter is normally the point of sale or use unless the taxpayer demonstrates that the use is not in a municipality imposing the municipal energy sales and use tax.

- (3) In establishing a default method under Subsection (2)(b), the commission:
- (a) shall take into account quantity discounts and other reductions or increases in value that are generally available in the marketplace for various grades or types of property and classes of services; and
 - (b) may consider:
 - (i) generally applicable tariffs for various classes of utility services approved by the Public Service Commission or other governmental entity;
 - (ii) posted prices;
 - (iii) spot-market prices;
 - (iv) trade publications;
 - (v) market data; and
 - (vi) other information and data prescribed by the commission.

Amended by Chapter 382, 2008 General Session

10-1-307 Administration, collection, and enforcement of taxes by commission -- Distribution of revenues -- Administrative charge -- Collection of taxes by municipality.

- (1)
- (a) Subject to Subsection (1)(b) and except as provided in Subsection (3), the commission shall administer, collect, and enforce the municipal energy sales and use tax from energy suppliers according to the procedures established in:
 - (i) Title 59, Chapter 1, General Taxation Policies; and
 - (ii) Title 59, Chapter 12, Part 1, Tax Collection, except for Sections 59-12-107.1 and 59-12-123.
 - (b) If an energy supplier pays a municipal energy sales and use tax to the commission, the energy supplier shall pay the municipal energy sales and use tax to the commission:
 - (i) monthly on or before the last day of the month immediately following the last day of the previous month if:
 - (A) the energy supplier is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or
 - (B) the energy supplier is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or
 - (ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the energy supplier is required to file a sales and use tax return with the commission quarterly under Section 59-12-108.
- (2)
- (a) Except as provided in Subsections 10-1-203(3)(d), 10-1-305(5), and 10-1-310(2) and subject to Subsection (6), the commission shall pay a municipality the difference between:
 - (i) the entire amount collected by the commission from the municipal energy sales and use tax authorized by this part based on:
 - (A) the point of sale of the taxable energy if a taxable sale occurs in a municipality that imposes a municipal energy sales and use tax as provided in this part; or
 - (B) the point of use of the taxable energy if the use occurs in a municipality that imposes a municipal energy sales and use tax as provided in this part; and
 - (ii) the administrative charge described in Subsection (2)(c).
 - (b) In accordance with Subsection (2)(a), the commission shall transfer to the municipality monthly by electronic transfer the revenues generated by the municipal energy sales and use tax levied by the municipality and collected by the commission.
- (c)

- (i) Subject to Subsection (2)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenues the commission collects from a municipal energy sales and use tax under this part.
 - (ii) The commission may not retain or deposit an administrative charge from revenues a municipality collects under Subsection (3) from a tax under this part.
- (3) An energy supplier shall pay the municipal energy sales and use tax revenues it collects from its customers under this part directly to each municipality in which the energy supplier has sales of taxable energy if:
 - (a) the municipality is the energy supplier; or
 - (b)
 - (i) the energy supplier estimates that the municipal energy sales and use tax collected annually by the energy supplier from its Utah customers equals \$1,000,000 or more; and
 - (ii) the energy supplier collects the tax imposed by this part.
- (4) An energy supplier paying a tax under this part directly to a municipality may retain the percentage of the tax authorized under Subsection 59-12-108(2) for the energy supplier's costs of collecting and remitting the tax.
- (5) An energy supplier paying the tax under this part directly to a municipality shall file an information return with the commission, at least annually, on a form prescribed by the commission.
- (6)
 - (a) As used in this Subsection (6):
 - (i) "2005 base amount" means, for a municipality that imposes a municipal energy sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2005.
 - (ii) "2006 base amount" means, for a municipality that imposes a municipal energy sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2006, reduced by the 2006 rebate amount.
 - (iii) "2006 rebate amount" means, for a municipality that imposes a municipal energy sales and use tax, the difference between:
 - (A) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2006; and
 - (B) the 2005 base amount, plus:
 - (I) 10% of the 2005 base amount; and
 - (II) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2006 attributable to an increase in the rate of the municipal energy sales and use tax implemented by the municipality during fiscal year 2006.
 - (iv) "2007 rebate amount" means, for a municipality that imposes a municipal energy sales and use tax, the difference between:
 - (A) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2007; and
 - (B) the 2006 base amount, plus:
 - (I) 10% of the 2006 base amount; and
 - (II) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2007 attributable to an increase in the rate of the municipal energy sales and use tax implemented by the municipality during fiscal year 2007.
 - (v) "Fiscal year 2005" means the period beginning July 1, 2004 and ending June 30, 2005.
 - (vi) "Fiscal year 2006" means the period beginning July 1, 2005 and ending June 30, 2006.
 - (vii) "Fiscal year 2007" means the period beginning July 1, 2006 and ending June 30, 2007.

- (viii) "Gas supplier" means an energy supplier that supplies natural gas.
- (ix) "Natural gas portion" means the amount of municipal energy sales and use tax proceeds attributable to sales and uses of natural gas.
- (b)
 - (i) In December 2006, each gas supplier shall reduce the natural gas portion of municipal energy sales and use gas proceeds to be paid to a municipality by the 2006 rebate amount.
 - (ii) If the 2006 rebate amount exceeds the amount of the natural gas portion of municipal energy sales and use tax proceeds for December 2006, the gas supplier shall reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality each month thereafter until the 2006 rebate amount is exhausted.
 - (iii) For December 2006 and for each month thereafter that the gas supplier is required under Subsection (6)(b)(ii) to reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality:
 - (A) each municipality imposing a municipal energy sales and use tax shall provide the gas supplier with the amount by which its municipal energy sales and use tax rate applicable to the sales and uses of natural gas would need to be reduced in order to reduce the natural gas portion of municipal energy sales and use tax proceeds by the same amount as the reduction to the municipality; and
 - (B) each gas supplier shall reduce the municipal energy sales and use tax rate applicable to sales and uses of natural gas by the amount of the tax rate reduction provided by the municipality.
- (c)
 - (i) In December 2007, each gas supplier shall reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality by the 2007 rebate amount.
 - (ii) If the 2007 rebate amount exceeds the amount of the natural gas portion of municipal energy sales and use tax proceeds for December 2007, the gas supplier shall reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality each month thereafter until the 2007 rebate amount is exhausted.
 - (iii) For December 2007 and for each month thereafter that the gas supplier is required under Subsection (6)(c)(ii) to reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality:
 - (A) each municipality imposing a municipal energy sales and use tax shall provide the gas supplier with the amount by which its municipal energy sales and use tax rate applicable to the sales and uses of natural gas would need to be reduced in order to reduce the natural gas portion of municipal energy sales and use tax proceeds by the same amount as the reduction to the municipality; and
 - (B) each gas supplier shall reduce the municipal energy sales and use tax rate applicable to sales and uses of natural gas by the amount of the tax rate reduction provided by the municipality.
- (d) Nothing in this Subsection (6) may be construed to require a reduction under Subsection (6)(b) or (c) if the rebate amount is zero or negative.

Amended by Chapter 309, 2011 General Session

10-1-308 Report of tax collections -- Allocation when location of taxpayer cannot be accurately determined.

- (1) All municipal energy sales and use taxes collected under this part shall be reported to the commission on forms that accurately identify the municipality where the taxpayer is located.

- (2) The commission shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to proportionally distribute all taxes collected if the municipality where the taxpayer is located cannot be accurately determined.

Amended by Chapter 382, 2008 General Session

10-1-310 Existing energy franchise taxes or contractual franchise fees.

- (1) Except as authorized in Subsection (2), Section 59-12-203, or Section 10-1-304, a municipality may not:
- (a) impose on, charge, or collect a franchise tax or contractual a franchise fee from an energy supplier; or
 - (b) collect a franchise tax or contractual franchise fee pursuant to a franchise agreement in effect on July 1, 1997.
- (2) A municipality that collects a contractual franchise fee from an energy supplier pursuant to a franchise agreement in effect on July 1, 1997, may continue to collect that fee at the same rate for the remaining term of the franchise agreement, except the municipality shall provide a credit against the municipal energy sales and use tax in the amount of the contractual franchise fee paid by the energy supplier pursuant to Subsection 10-1-305(5).
- (3)
- (a) Subject to the requirements of Subsection (3)(b), a franchise agreement as defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain a provision that:
 - (i) requires the energy supplier by agreement to pay a contractual franchise fee that is otherwise prohibited under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; and
 - (ii) imposes the contractual franchise fee on or after the day on which Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act is:
 - (A) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-304 is reduced; and
 - (B) is not superseded by a law imposing a substantially equivalent tax.
 - (b) A municipality may not charge a contractual franchise fee under the provisions permitted by Subsection (3)(a) unless the municipality charges an equal contractual franchise fee or a tax on all energy suppliers.
- (4) This section may not affect the validity of any existing or future franchise agreement and any franchise agreement effective on July 1, 1997, shall remain in full force and effect, unless otherwise terminated or altered by agreement or applicable law.

Enacted by Chapter 280, 1996 General Session

Part 4
Municipal Telecommunications License Tax Act

10-1-401 Title.

This part is known as the "Municipal Telecommunications License Tax Act."

Enacted by Chapter 253, 2003 General Session

10-1-402 Definitions.

As used in this part:

- (1) "Commission" means the State Tax Commission.
- (2)
 - (a) Subject to Subsections (2)(b) and (c), "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.
 - (b) For purposes of this section and Section 10-1-407, "customer" means:
 - (i) the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or
 - (ii) if the end user is not the person described in Subsection (2)(b)(i), the end user of telecommunications service.
 - (c) "Customer" does not include a reseller:
 - (i) of telecommunications service; or
 - (ii) for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.
- (3)
 - (a) "End user" means the person who uses a telecommunications service.
 - (b) For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.
- (4)
 - (a) "Gross receipts from telecommunications service" means the revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:
 - (i) a tax, fee, or charge:
 - (A) imposed by a governmental entity;
 - (B) separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and
 - (C) imposed only on a telecommunications provider;
 - (ii) sales and use taxes collected by the telecommunications provider from a customer under Title 59, Chapter 12, Sales and Use Tax Act; or
 - (iii) interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.
 - (b) "Gross receipts from telecommunications service" includes a charge necessary to complete a sale of a telecommunications service.
- (5) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- (6) "Municipality" means a city or town.
- (7) "Place of primary use":
 - (a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:
 - (i) the residential street address of the customer; or
 - (ii) the primary business street address of the customer; or
 - (b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

- (8) Notwithstanding where a call is billed or paid, "service address" means:
- (a) if the location described in this Subsection (8)(a) is known, the location of the telecommunications equipment:
 - (i) to which a call is charged; and
 - (ii) from which the call originates or terminates;
 - (b) if the location described in Subsection (8)(a) is not known but the location described in this Subsection (8)(b) is known, the location of the origination point of the signal of the telecommunications service first identified by:
 - (i) the telecommunications system of the telecommunications provider; or
 - (ii) if the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider;or
 - (c) if the locations described in Subsection (8)(a) or (b) are not known, the location of a customer's place of primary use.
- (9)
- (a) Subject to Subsections (9)(b) and (9)(c), "telecommunications provider" means a person that:
 - (i) owns, controls, operates, or manages a telecommunications service; or
 - (ii) engages in an activity described in Subsection (9)(a)(i) for the shared use with or resale to any person of the telecommunications service.
 - (b) A person described in Subsection (9)(a) is a telecommunications provider whether or not the Public Service Commission of Utah regulates:
 - (i) that person; or
 - (ii) the telecommunications service that the person owns, controls, operates, or manages.
 - (c) "Telecommunications provider" does not include an aggregator as defined in Section 54-8b-2.
- (10) "Telecommunications service" means:
- (a) telecommunications service, as defined in Section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;
 - (b) mobile telecommunications service, as defined in Section 59-12-102:
 - (i) that originates and terminates within the boundaries of one state; and
 - (ii) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
 - (c) an ancillary service as defined in Section 59-12-102.
- (11)
- (a) Except as provided in Subsection (11)(b), "telecommunications tax or fee" means any of the following imposed by a municipality on a telecommunications provider:
 - (i) a tax;
 - (ii) a license;
 - (iii) a fee;
 - (iv) a license fee;
 - (v) a license tax;
 - (vi) a franchise fee; or
 - (vii) a charge similar to a tax, license, or fee described in Subsections (11)(a)(i) through (vi).
 - (b) "Telecommunications tax or fee" does not include:
 - (i) the municipal telecommunications license tax authorized by this part; or
 - (ii) a tax, fee, or charge, including a tax imposed under Title 59, Revenue and Taxation, that is imposed:
 - (A) on telecommunications providers; and
 - (B) on persons who are not telecommunications providers.

Amended by Chapter 384, 2008 General Session

10-1-403 Municipality and military installation development authority may levy municipal telecommunications license tax -- Recovery from customers -- Enactment, repeal, or change in rate of tax -- Annexation.

- (1)
 - (a)
 - (i) Subject to the provisions of this section, beginning July 1, 2004, a municipality may levy on and provide that there is collected from a telecommunications provider a municipal telecommunications license tax on the telecommunications provider's gross receipts from telecommunications service that are attributed to the municipality in accordance with Section 10-1-407.
 - (ii) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may levy and collect a municipal telecommunications license tax under this part for telecommunications service provided within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.
 - (b) To levy and provide for the collection of a municipal telecommunications license tax under this part, the municipality shall adopt an ordinance that complies with the requirements of Section 10-1-404.
 - (c) Beginning on July 1, 2007, a municipal telecommunications license tax imposed under this part shall be at a rate of up to 3.5% of the telecommunications provider's gross receipts from telecommunications service that are attributed to the municipality in accordance with Section 10-1-407.
- (2) A telecommunications provider may recover the amounts paid in municipal telecommunications license taxes from the customers of the telecommunications provider within the municipality imposing the municipal telecommunications license tax through a charge that is separately identified in the statement of the transaction with the customer as the recovery of a tax.
- (3)
 - (a) For purposes of this Subsection (3):
 - (i) "Annexation" means an annexation to a municipality under Title 10, Chapter 2, Part 4, Annexation.
 - (ii) "Annexing area" means an area that is annexed into a municipality.
 - (b)
 - (i) If, on or after July 1, 2004, a municipality enacts or repeals a tax or changes the rate of the tax under this part, the enactment, repeal, or change shall take effect:
 - (A) on the first day of a calendar quarter; and
 - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b)(ii) from the municipality.
 - (ii) The notice described in Subsection (3)(b)(i)(B) shall state:
 - (A) that the municipality will enact or repeal a tax under this part or change the rate of the tax;
 - (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);
 - (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and
 - (D) if the municipality enacts the municipal telecommunications license tax or changes the rate of the tax, the new rate of the tax.
 - (c)

- (i) If, for an annexation that occurs on or after July 1, 2004, the annexation will result in a change in the rate of the tax under this part for an annexing area, the change shall take effect:
 - (A) on the first day of a calendar quarter; and
 - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.
- (ii) The notice described in Subsection (3)(c)(i)(B) shall state:
 - (A) that the annexation described in Subsection (3)(c)(i) will result in a change in the rate of a tax under this part for the annexing area;
 - (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);
 - (C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and
 - (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).
- (4) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal telecommunications license tax rate that takes effect on July 1, 2007, a municipality is not subject to the notice requirements of Subsection (3)(b) if:
 - (a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that exceeds 3.5%; and
 - (b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate of 3.5%.
- (5) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal telecommunications license tax rate that takes effect on July 1, 2007, the 90-day period described in Subsection (3)(b)(i)(B) is considered to be a 30-day period if:
 - (a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that exceeds 3.5%; and
 - (b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that is less than 3.5%.
- (6)
 - (a) A municipality may not levy or collect a municipal telecommunications license tax for telecommunications service provided within any portion of the municipality that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act.
 - (b) Subsection (6)(a) does not apply to the military installation development authority's levy of a municipal telecommunications license tax.

Amended by Chapter 92, 2009 General Session

10-1-404 Municipal telecommunications license tax ordinance provisions.

An ordinance required by Subsection 10-1-403(1) shall include a provision that:

- (1) levies a municipal telecommunications license tax:
 - (a) on the gross receipts from telecommunications service attributed to the municipality in accordance with Section 10-1-407;
 - (b) at a rate:
 - (i) not to exceed the rate specified in Subsection 10-1-403(1)(c); and
 - (ii) subject to the requirements of Section 10-1-407; and
 - (c) beginning on a date:
 - (i) on or after July 1, 2004; and
 - (ii) subject to the requirements of Section 10-1-403;

- (2) on or before the effective date of the ordinance, the municipality shall enter into the uniform interlocal agreement with the commission described in Section 10-1-405 under which the commission collects, enforces, and administers the municipal telecommunications license tax;
- (3) exempts a municipality from the limitation on the rate that may be imposed under Subsection (1)(b)(i) if the exemption from the limitation on the rate that may be imposed under Subsection (1)(b)(i) is approved by a majority vote of the voters in the municipality that vote in:
 - (a) a municipal general election; or
 - (b) a regular general election; and
- (4) incorporates the provisions of Section 10-1-408.

Amended by Chapter 415, 2013 General Session

**10-1-405 Collection of taxes by commission -- Uniform interlocal agreement --
Administrative charge -- Rulemaking authority.**

- (1) Subject to the other provisions of this section, the commission shall collect, enforce, and administer any municipal telecommunications license tax imposed under this part pursuant to:
 - (a) the same procedures used in the administration, collection, and enforcement of the state sales and use tax under:
 - (i) Title 59, Chapter 1, General Taxation Policies; and
 - (ii) Title 59, Chapter 12, Part 1, Tax Collection:
 - (A) except for:
 - (I) Subsection 59-12-103(2)(i);
 - (II) Section 59-12-104;
 - (III) Section 59-12-104.1;
 - (IV) Section 59-12-104.2;
 - (V) Section 59-12-104.3;
 - (VI) Section 59-12-107.1; and
 - (VII) Section 59-12-123; and
 - (B) except that for purposes of Section 59-1-1410, the term "person" may include a customer from whom a municipal telecommunications license tax is recovered in accordance with Subsection 10-1-403(2); and
 - (b) a uniform interlocal agreement between the municipality that imposes the municipal telecommunications license tax and the commission:
 - (i) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;
 - (ii) that complies with Subsection (2)(a); and
 - (iii) that is developed by rule in accordance with Subsection (2)(b).
- (2)
 - (a) The uniform interlocal agreement described in Subsection (1) shall provide that the commission shall:
 - (i) transmit money collected under this part monthly by electronic funds transfer by the commission to the municipality;
 - (ii) conduct audits of the municipal telecommunications license tax;
 - (iii) retain and deposit an administrative charge in accordance with Section 59-1-306 from revenues the commission collects from a tax under this part; and
 - (iv) collect, enforce, and administer the municipal telecommunications license tax authorized under this part pursuant to the same procedures used in the administration, collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).

- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall develop a uniform interlocal agreement that meets the requirements of this section.
- (3) If a telecommunications provider pays a municipal telecommunications license tax to the commission, the telecommunications provider shall pay the municipal telecommunications license tax to the commission:
 - (a) monthly on or before the last day of the month immediately following the last day of the previous month if:
 - (i) the telecommunications provider is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or
 - (ii) the telecommunications provider is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or
 - (b) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the telecommunications provider is required to file a sales and use tax return with the commission quarterly under Section 59-12-108.
- (4) If, on July 1, 2007, a municipality has in effect an ordinance that levies a municipal telecommunications license tax under this part at a rate that exceeds 3.5%:
 - (a) except as provided in Subsection (4)(b), beginning on July 1, 2007, the commission shall collect the municipal telecommunications license tax:
 - (i) within the municipality;
 - (ii) at a rate of 3.5%; and
 - (iii) from a telecommunications provider required to pay the municipal telecommunications license tax on or after July 1, 2007; and
 - (b) the commission shall collect a municipal telecommunications license tax within the municipality at the rate imposed by the municipality if:
 - (i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax under this part at a rate of up to 3.5%;
 - (ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing the rate of the municipal telecommunications license tax; and
 - (iii) a telecommunications provider is required to pay the municipal telecommunications license tax on or after the day on which the ordinance described in Subsection (4)(b)(ii) takes effect.

Amended by Chapter 424, 2012 General Session

10-1-406 Limitation of other telecommunications taxes or fees.

- (1) Subject to the other provisions of this section, a municipality may not levy or collect a telecommunications tax or fee on a person except for a telecommunications tax or fee imposed by the municipality:
 - (a) on a telecommunications provider to recover the management costs of the municipality caused by the activities of the telecommunications provider in the right-of-way of a municipality if the telecommunications tax or fee:
 - (i) is imposed in accordance with Section 72-7-102; and
 - (ii) is not related to:
 - (A) a municipality's loss of use of a highway as a result of the activities of the telecommunications provider in a right-of-way; or
 - (B) increased deterioration of a highway as a result of the activities of the telecommunications provider in a right-of-way; or
 - (b) on a person that:

- (i) is not subject to a municipal telecommunications license tax under this part; and
 - (ii) locates telecommunications facilities, as defined in Section 72-7-108, in the municipality.
- (2) Subsection (1)(a) may not be interpreted as exempting a telecommunications provider from complying with any ordinance:
 - (a) related to excavation, construction, or installation of a telecommunications facility; and
 - (b) that addresses the safety and quality standards of the municipality for excavation, construction, or installation.
- (3) A telecommunications tax or fee imposed under Subsection (1)(b) shall be imposed:
 - (a) by ordinance; and
 - (b) on a competitively neutral basis.

Enacted by Chapter 253, 2003 General Session

10-1-407 Attributing the gross receipts from telecommunications service to a municipality -- Rate impact.

- (1) The gross receipts from a telecommunications service are attributed to a municipality if the gross receipts are from a transaction for telecommunications service that is located within the municipality:
 - (a) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act; and
 - (b) determined in accordance with Section 59-12-215.
- (2)
 - (a) The rate imposed on the gross receipts for telecommunications service shall be determined in accordance with Subsection (2)(b) if the location of a transaction for telecommunications service is determined under Subsection (1) to be a municipality other than the municipality in which is located:
 - (i) for telecommunications service other than mobile telecommunications service, the customer's service address; or
 - (ii) for mobile telecommunications service, the customer's primary place of use.
 - (b) The rate imposed on the gross receipts for telecommunications service described in Subsection (2)(a) shall be the lower of:
 - (i) the rate imposed by the taxing jurisdiction in which the transaction is located under Subsection (1); or
 - (ii) the rate imposed by the municipality in which it is located:
 - (A) for telecommunications service other than mobile telecommunications service, the customer's service address; or
 - (B) for mobile telecommunications service, the customer's primary place of use.

Amended by Chapter 384, 2008 General Session

10-1-408 Procedure for taxes erroneously recovered from customers.

A customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider erroneously recovered from the customer municipal telecommunications license taxes authorized by this part unless the customer meets the same requirements that a purchaser is required to meet to bring a cause of action against a seller for a refund or credit as provided in Subsection 59-12-110.1(3).

Amended by Chapter 255, 2004 General Session

10-1-410 Transactions consisting of telecommunications service and nontelecommunications services.

- (1) For purposes of this section, "nontelecommunications services" means services or tangible personal property that are:
 - (a) not telecommunications service; and
 - (b) provided by a telecommunications provider to a customer.
- (2) Except to the extent prohibited by federal law, if a telecommunications provider provides nontelecommunications services to a customer as part of the same transaction in which the telecommunications provider provides telecommunications service, the gross receipts from the nontelecommunications services provided by the telecommunications provider are subject to a tax under this part unless:
 - (a) the charge for the nontelecommunications services is separately identified in the statement of the transaction with the customer of the telecommunications service; or
 - (b) from the books and records of the telecommunications provider that are kept in the regular course of business, the telecommunications provider can reasonably identify the portion of the total charge for the transaction that is attributable to:
 - (i) the nontelecommunications services; and
 - (ii) the telecommunications service.

Enacted by Chapter 253, 2003 General Session

Chapter 2
Classification, Boundaries, Consolidation, and Dissolution of Municipalities

Part 3
Classification of Municipalities

10-2-301 Classification of municipalities according to population.

- (1) Each municipality shall be classified according to its population, as provided in this section.
- (2)
 - (a) A municipality with a population of 100,000 or more is a city of the first class.
 - (b) A municipality with a population of 65,000 or more but less than 100,000 is a city of the second class.
 - (c) A municipality with a population of 30,000 or more but less than 65,000 is a city of the third class.
 - (d) A municipality with a population of 10,000 or more but less than 30,000 is a city of the fourth class.
 - (e) A municipality with a population of 1,000 or more but less than 10,000 is a city of the fifth class.
 - (f) A municipality with a population under 1,000 is a town.

Amended by Chapter 292, 2003 General Session

10-2-301.5 Classification of metro townships according to population.

- (1) Each metro township, as defined in Section 10-2a-403, shall be classified according to its population, as provided in this section.
- (2) A metro township with a population of:
 - (a) 1,000 or more is a metro township of the first class; and
 - (b) fewer than 1,000 is a metro township of the second class.

Enacted by Chapter 352, 2015 General Session

10-2-302 Change of class of municipality.

- (1) Each municipality shall retain its classification under Section 10-2-301 until changed as provided in this section or Subsection 67-1a-2(3).
- (2)
 - (a) If a municipality's population, as determined by the lieutenant governor under Subsection 67-1a-2(3), indicates that the municipality's population has decreased below the limit for its current class, the legislative body of the municipality may petition the lieutenant governor to prepare a certificate indicating the class in which the municipality belongs based on the decreased population figure.
 - (b) Notwithstanding Subsection (2)(a), the legislative body of a metro township may not petition under this section to change from a metro township to a city or town.
- (3) A municipality's change in class is effective on the date of the lieutenant governor's certificate under Subsection 67-1a-2(3).

Amended by Chapter 352, 2015 General Session

10-2-303 Effect of change in class.

- (1) If a municipality changes from one class to another:
 - (a) all property, property rights, and other rights that belonged to or were vested in the municipality at the time of the change shall belong to and be vested in it after the change;
 - (b) no contract, claim, or right of the municipality or demand or liability against it shall be altered or affected in any way by the change;
 - (c) each ordinance, order, and resolution in force in the municipality when it changes classes shall, to the extent that it is not inconsistent with law, not be affected by the change and shall remain in effect until repealed or amended;
 - (d) the change may not affect the identity of the municipality;
 - (e) each municipal officer in office at the time of the change shall continue as an officer until that officer's term expires and a successor is duly elected and qualified; and
 - (f) the municipality maintains after the change in class the same form of government that it had immediately before the change.
- (2)
 - (a) A change in class does not affect an action at law, prosecution, business, or work of the municipality changing classes, and proceedings shall continue and may be conducted and proceed as if no change in class had occurred.
 - (b) Notwithstanding Subsection (2)(a), if the law applicable to a municipality under the new class provides the municipality a different remedy with respect to a right that it possessed at the time of the change, the remedy shall be cumulative to the remedy applicable before the change in class.

Amended by Chapter 378, 2010 General Session

10-2-306 Judicial notice taken of existence and class.

All courts in this state shall take judicial notice of the existence and classification of any municipality.

Enacted by Chapter 48, 1977 General Session

Part 4 Annexation

10-2-401 Definitions -- Property owner provisions.

(1) As used in this part:

(a) "Affected entity" means:

- (i) a county of the first or second class in whose unincorporated area the area proposed for annexation is located;
- (ii) a county of the third, fourth, fifth, or sixth class in whose unincorporated area the area proposed for annexation is located, if the area includes residents or commercial or industrial development;
- (iii) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, whose boundary includes any part of an area proposed for annexation;
- (iv) a school district whose boundary includes any part of an area proposed for annexation, if the boundary is proposed to be adjusted as a result of the annexation; and
- (v) a municipality whose boundaries are within 1/2 mile of an area proposed for annexation.

(b) "Annexation petition" means a petition under Section 10-2-403 proposing the annexation to a municipality of a contiguous, unincorporated area that is contiguous to the municipality.

(c) "Commission" means a boundary commission established under Section 10-2-409 for the county in which the property that is proposed for annexation is located.

(d) "Expansion area" means the unincorporated area that is identified in an annexation policy plan under Section 10-2-401.5 as the area that the municipality anticipates annexing in the future.

(e) "Feasibility consultant" means a person or firm with expertise in the processes and economics of local government.

(f) "Municipal selection committee" means a committee in each county composed of the mayor of each municipality within that county.

(g) "Planning advisory area" means the same as that term is defined in Section 17-27a-306.

(h) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, a municipality, a school district, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision or governmental entity of the state.

(i) "Specified county" means a county of the second, third, fourth, fifth, or sixth class.

(j) "Unincorporated peninsula" means an unincorporated area:

- (i) that is part of a larger unincorporated area;
- (ii) that extends from the rest of the unincorporated area of which it is a part;

- (iii) that is surrounded by land that is within a municipality, except where the area connects to and extends from the rest of the unincorporated area of which it is a part; and
- (iv) whose width, at any point where a straight line may be drawn from a place where it borders a municipality to another place where it borders a municipality, is no more than 25% of the boundary of the area where it borders a municipality.
- (k) "Urban development" means:
 - (i) a housing development with more than 15 residential units and an average density greater than one residential unit per acre; or
 - (ii) a commercial or industrial development for which cost projections exceed \$750,000 for all phases.
- (2) For purposes of this part:
 - (a) the owner of real property shall be:
 - (i) except as provided in Subsection (2)(a)(ii), the record title owner according to the records of the county recorder on the date of the filing of the petition or protest; or
 - (ii) the lessee of military land, as defined in Section 63H-1-102, if the area proposed for annexation includes military land that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act; and
 - (b) the value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the petition or protest.
- (3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or majority of the total private land area within an area to sign a petition or protest:
 - (a) a parcel of real property may not be included in the calculation of the required percentage or majority unless the petition or protest is signed by:
 - (i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or
 - (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;
 - (b) the signature of a person signing a petition or protest in a representative capacity on behalf of an owner is invalid unless:
 - (i) the person's representative capacity and the name of the owner the person represents are indicated on the petition or protest with the person's signature; and
 - (ii) the person provides documentation accompanying the petition or protest that substantiates the person's representative capacity; and
 - (c) subject to Subsection (3)(b), a duly appointed personal representative may sign a petition or protest on behalf of a deceased owner.

Amended by Chapter 352, 2015 General Session

10-2-401.5 Annexation policy plan.

- (1) After December 31, 2002, no municipality may annex an unincorporated area located within a specified county unless the municipality has adopted an annexation policy plan as provided in this section.
- (2) To adopt an annexation policy plan:
 - (a) the planning commission shall:
 - (i) prepare a proposed annexation policy plan that complies with Subsection (3);

- (ii) hold a public meeting to allow affected entities to examine the proposed annexation policy plan and to provide input on it;
- (iii) provide notice of the public meeting under Subsection (2)(a)(ii) to each affected entity at least 14 days before the meeting;
- (iv) accept and consider any additional written comments from affected entities until 10 days after the public meeting under Subsection (2)(a)(ii);
- (v) before holding the public hearing required under Subsection (2)(a)(vi), make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on input provided at or within 10 days after the public meeting under Subsection (2)(a)(ii);
- (vi) hold a public hearing on the proposed annexation policy plan;
- (vii) provide reasonable public notice, including notice to each affected entity, of the public hearing required under Subsection (2)(a)(vi) at least 14 days before the date of the hearing;
- (viii) make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on public input provided at the public hearing; and
- (ix) submit its recommended annexation policy plan to the municipal legislative body; and
- (b) the municipal legislative body shall:
 - (i) hold a public hearing on the annexation policy plan recommended by the planning commission;
 - (ii) provide reasonable notice, including notice to each affected entity, of the public hearing at least 14 days before the date of the hearing;
 - (iii) after the public hearing under Subsection (2)(b)(ii), make any modifications to the recommended annexation policy plan that the legislative body considers appropriate; and
 - (iv) adopt the recommended annexation policy plan, with or without modifications.
- (3) Each annexation policy plan shall include:
 - (a) a map of the expansion area which may include territory located outside the county in which the municipality is located;
 - (b) a statement of the specific criteria that will guide the municipality's decision whether or not to grant future annexation petitions, addressing matters relevant to those criteria including:
 - (i) the character of the community;
 - (ii) the need for municipal services in developed and undeveloped unincorporated areas;
 - (iii) the municipality's plans for extension of municipal services;
 - (iv) how the services will be financed;
 - (v) an estimate of the tax consequences to residents both currently within the municipal boundaries and in the expansion area; and
 - (vi) the interests of all affected entities;
 - (c) justification for excluding from the expansion area any area containing urban development within 1/2 mile of the municipality's boundary; and
 - (d) a statement addressing any comments made by affected entities at or within 10 days after the public meeting under Subsection (2)(a)(ii).
- (4) In developing, considering, and adopting an annexation policy plan, the planning commission and municipal legislative body shall:
 - (a) attempt to avoid gaps between or overlaps with the expansion areas of other municipalities;
 - (b) consider population growth projections for the municipality and adjoining areas for the next 20 years;
 - (c) consider current and projected costs of infrastructure, urban services, and public facilities necessary:
 - (i) to facilitate full development of the area within the municipality; and

- (ii) to expand the infrastructure, services, and facilities into the area being considered for inclusion in the expansion area;
 - (d) consider, in conjunction with the municipality's general plan, the need over the next 20 years for additional land suitable for residential, commercial, and industrial development;
 - (e) consider the reasons for including agricultural lands, forests, recreational areas, and wildlife management areas in the municipality; and
 - (f) be guided by the principles set forth in Subsection 10-2-403(5).
- (5) Within 30 days after adopting an annexation policy plan, the municipal legislative body shall submit a copy of the plan to the legislative body of each county in which any of the municipality's expansion area is located.
- (6) Nothing in this chapter may be construed to prohibit or restrict two or more municipalities in specified counties from negotiating and cooperating with respect to defining each municipality's expansion area under an annexation policy plan.

Enacted by Chapter 206, 2001 General Session

10-2-402 Annexation -- Limitations.

- (1)
- (a) A contiguous, unincorporated area that is contiguous to a municipality may be annexed to the municipality as provided in this part.
 - (b) An unincorporated area may not be annexed to a municipality unless:
 - (i) it is a contiguous area;
 - (ii) it is contiguous to the municipality;
 - (iii) annexation will not leave or create an unincorporated island or unincorporated peninsula:
 - (A) except as provided in Subsection 10-2-418(2)(b); or
 - (B) unless the county and municipality have otherwise agreed; and
 - (iv) for an area located in a specified county with respect to an annexation that occurs after December 31, 2002, the area is within the proposed annexing municipality's expansion area.
- (2) Except as provided in Section 10-2-418, a municipality may not annex an unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.
- (3)
- (a) An annexation under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of that parcel has signed the annexation petition under Section 10-2-403.
 - (b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (3)(a) if owned by the same owner.
- (4) A municipality may not annex an unincorporated area in a specified county for the sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to annex the same or a related area unless the municipality has the ability and intent to benefit the annexed area by providing municipal services to the annexed area.
- (5) The legislative body of a specified county may not approve urban development within a municipality's expansion area unless:
- (a) the county notifies the municipality of the proposed development; and
 - (b)
 - (i) the municipality consents in writing to the development; or
 - (ii)

- (A) within 90 days after the county's notification of the proposed development, the municipality submits to the county a written objection to the county's approval of the proposed development; and
 - (B) the county responds in writing to the municipality's objections.
- (6)
- (a) An annexation petition may not be filed under this part proposing the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located unless the legislative body of the county in which the area is located has adopted a resolution approving the proposed annexation.
 - (b) Each county legislative body that declines to adopt a resolution approving a proposed annexation described in Subsection (6)(a) shall provide a written explanation of its reasons for declining to approve the proposed annexation.
- (7)
- (a) As used in this Subsection (7), "airport" means an area that the Federal Aviation Administration has, by a record of decision, approved for the construction or operation of a Class I, II, or III commercial service airport, as designated by the Federal Aviation Administration in 14 C.F.R. Part 139.
 - (b) A municipality may not annex an unincorporated area within 5,000 feet of the center line of any runway of an airport operated or to be constructed and operated by another municipality unless the legislative body of the other municipality adopts a resolution consenting to the annexation.
 - (c) A municipality that operates or intends to construct and operate an airport and does not adopt a resolution consenting to the annexation of an area described in Subsection (7)(b) may not deny an annexation petition proposing the annexation of that same area to that municipality.
- (8)
- (a) A municipality may not annex an unincorporated area located within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, without the authority's approval.
 - (b)
 - (i) Except as provided in Subsection (8)(b)(ii), the Military Installation Development Authority may petition for annexation of a project area and contiguous surrounding land to a municipality as if it was the sole private property owner of the project area and surrounding land, if the area to be annexed is entirely contained within the boundaries of a military installation.
 - (ii) Before petitioning for annexation under Subsection (8)(b)(i), the Military Installation Development Authority shall provide the military installation with a copy of the petition for annexation. The military installation may object to the petition for annexation within 14 days of receipt of the copy of the annexation petition. If the military installation objects under this Subsection (8)(b)(ii), the Military Installation Development Authority may not petition for the annexation as if it was the sole private property owner.
 - (iii) If any portion of an area annexed under a petition for annexation filed by a Military Installation Development Authority is located in a specified county:
 - (A) the annexation process shall follow the requirements for a specified county; and
 - (B) the provisions of Subsection 10-2-402(6) do not apply.

Amended by Chapter 352, 2015 General Session
Amended by Chapter 462, 2015 General Session

10-2-403 Annexation petition -- Requirements -- Notice required before filing.

- (1) Except as provided in Section 10-2-418, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.
- (2)
 - (a)
 - (i) Before filing a petition under Subsection (1) with respect to the proposed annexation of an area located in a county of the first class, the person or persons intending to file a petition shall:
 - (A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and
 - (B) send a copy of the notice of intent to each affected entity.
 - (ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.
 - (b)
 - (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:
 - (A) mail the notice described in Subsection (2)(b)(iii) to:
 - (I) each owner of real property located within the area proposed to be annexed; and
 - (II) each owner of real property located within 300 feet of the area proposed to be annexed; and
 - (B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).
 - (ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent:
 - (A) a written request to mail the required notice; and
 - (B) payment of an amount equal to the county's expected actual cost of mailing the notice.
 - (iii) Each notice required under Subsection (2)(b)(i)(A) shall:
 - (A) be in writing;
 - (B) state, in bold and conspicuous terms, substantially the following:

"Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether or not to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official

or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality)."; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c)

(i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the city recorder or town clerk, as the case may be, of the proposed annexing municipality;

(b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii)

(A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area within the area proposed for annexation;

(B) covers 100% of rural real property as that term is defined in Section 17B-2a-1107 within the area proposed for annexation; and

(C) covers 100% of the private land area within the area proposed for annexation, if the area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture and Industrial Protection Areas, or a migratory bird production area created under Title 23, Chapter 28, Migratory Bird Production Area; and

(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;

(c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

(d) if the area proposed to be annexed is located in a county of the first class, contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

"Notice:

• There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

- If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.";
- (e) if the petition proposes the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located, be accompanied by a copy of the resolution, required under Subsection 10-2-402(6), of the legislative body of the county in which the area is located; and
- (f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.
- (4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.
- (5) A petition under Subsection (1) proposing the annexation of an area located in a county of the first class may not propose the annexation of an area that includes some or all of an area proposed to be incorporated in a request for a feasibility study under Section 10-2a-202 or a petition under Section 10-2a-302 if:
 - (a) the request or petition was filed before the filing of the annexation petition; and
 - (b) the request, a petition under Section 10-2a-208 based on that request, or a petition under Section 10-2a-302 is still pending on the date the annexation petition is filed.
- (6) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:
 - (a) along the boundaries of existing local districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;
 - (b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;
 - (c) to facilitate the consolidation of overlapping functions of local government;
 - (d) to promote the efficient delivery of services; and
 - (e) to encourage the equitable distribution of community resources and obligations.
- (7) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to the clerk of the county in which the area proposed for annexation is located.
- (8) A property owner who signs an annexation petition proposing to annex an area located in a county of the first class may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).

Amended by Chapter 352, 2015 General Session

10-2-405 Acceptance or denial of an annexation petition -- Petition certification process -- Modified petition.

- (1)
 - (a)
 - (i) A municipal legislative body may:
 - (A) subject to Subsection (1)(a)(ii), deny a petition filed under Section 10-2-403; or
 - (B) accept the petition for further consideration under this part.

- (ii) A petition shall be considered to have been accepted for further consideration under this part if a municipal legislative body fails to act to deny or accept the petition under Subsection (1)(a)(i):
 - (A) in the case of a city of the first or second class, within 14 days after the filing of the petition; or
 - (B) in the case of a city of the third, fourth, or fifth class, a town, or a metro township, at the next regularly scheduled meeting of the municipal legislative body that is at least 14 days after the date the petition was filed.
- (b) If a municipal legislative body denies a petition under Subsection (1)(a)(i), it shall, within five days after the denial, mail written notice of the denial to:
 - (i) the contact sponsor; and
 - (ii) the clerk of the county in which the area proposed for annexation is located.
- (2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i) or is considered to have accepted the petition under Subsection (1)(a)(ii), the city recorder or town clerk, as the case may be, shall, within 30 days after that acceptance:
 - (a) obtain from the assessor, clerk, surveyor, and recorder of the county in which the area proposed for annexation is located the records the city recorder or town clerk needs to determine whether the petition meets the requirements of Subsections 10-2-403(3), (4), and (5);
 - (b) with the assistance of the municipal attorney, determine whether the petition meets the requirements of Subsections 10-2-403(3), (4), and (5); and
 - (c)
 - (i) if the city recorder or town clerk determines that the petition meets those requirements, certify the petition and mail or deliver written notification of the certification to the municipal legislative body, the contact sponsor, and the county legislative body; or
 - (ii) if the city recorder or town clerk determines that the petition fails to meet any of those requirements, reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the municipal legislative body, the contact sponsor, and the county legislative body.
- (3)
 - (a)
 - (i) If the city recorder or town clerk rejects a petition under Subsection (2)(c)(ii), the petition may be modified to correct the deficiencies for which it was rejected and then refiled with the city recorder or town clerk, as the case may be.
 - (ii) A signature on an annexation petition filed under Section 10-2-403 may be used toward fulfilling the signature requirement of Subsection 10-2-403(2)(b) for the petition as modified under Subsection (3)(a)(i).
 - (b) If a petition is refiled under Subsection (3)(a) after having been rejected by the city recorder or town clerk under Subsection (2)(c)(ii), the refiled petition shall be treated as a newly filed petition under Subsection 10-2-403(1).
- (4) Each county assessor, clerk, surveyor, and recorder shall provide copies of records that a city recorder or town clerk requests under Subsection (2)(a).

Amended by Chapter 352, 2015 General Session

10-2-406 Notice of certification -- Publishing and providing notice of petition.

- (1) After receipt of the notice of certification from the city recorder or town clerk under Subsection 10-2-405(2)(c)(i), the municipal legislative body shall:

- (a)
 - (i) publish a notice:
 - (A) at least once a week for three successive weeks, beginning no later than 10 days after receipt of the notice of certification, in a newspaper of general circulation within:
 - (I) the area proposed for annexation; and
 - (II) the unincorporated area within 1/2 mile of the area proposed for annexation; and
 - (B) in accordance with Section 45-1-101, for three weeks, beginning no later than 10 days after receipt of the notice of certification; and
 - (ii) in accordance with Subsection (1)(a)(i)(A), if there is no newspaper of general circulation within those areas, post written notices in conspicuous places within those areas that are most likely to give notice to residents within those areas; and
 - (b) within 20 days of receipt of the notice of certification under Subsection 10-2-405(2)(c)(i), mail written notice to each affected entity.
- (2)
- (a) The notice under Subsections (1)(a) and (b) shall:
 - (i) state that a petition has been filed with the municipality proposing the annexation of an area to the municipality;
 - (ii) state the date of the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i);
 - (iii) describe the area proposed for annexation in the annexation petition;
 - (iv) state that the complete annexation petition is available for inspection and copying at the office of the city recorder or town clerk;
 - (v) state in conspicuous and plain terms that the municipality may grant the petition and annex the area described in the petition unless, within the time required under Subsection 10-2-407(2)(a)(i)(A), a written protest to the annexation petition is filed with the commission and a copy of the protest delivered to the city recorder or town clerk of the proposed annexing municipality;
 - (vi) state the address of the commission or, if a commission has not yet been created in the county, the county clerk, where a protest to the annexation petition may be filed;
 - (vii) state that the area proposed for annexation to the municipality will also automatically be annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:
 - (A) the proposed annexing municipality is entirely within the boundaries of a local district:
 - (I) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and
 - (II) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and
 - (B) the area proposed to be annexed to the municipality is not already within the boundaries of the local district; and
 - (viii) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Subsection 17B-1-502(2), if:
 - (A) the petition proposes the annexation of an area that is within the boundaries of a local district:
 - (I) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

- (II) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and
- (B) the proposed annexing municipality is not within the boundaries of the local district.
- (b) The statement required by Subsection (2)(a)(v) shall state the deadline for filing a written protest in terms of the actual date rather than by reference to the statutory citation.
- (c) In addition to the requirements under Subsection (2)(a), a notice under Subsection (1)(a) for a proposed annexation of an area within a county of the first class shall include a statement that a protest to the annexation petition may be filed with the commission by property owners if it contains the signatures of the owners of private real property that:
 - (i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;
 - (ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and
 - (iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

Amended by Chapter 218, 2009 General Session

Amended by Chapter 388, 2009 General Session

10-2-407 Protest to annexation petition -- Planning advisory area planning commission recommendation -- Petition requirements -- Disposition of petition if no protest filed.

- (1) A protest to an annexation petition under Section 10-2-403 may be filed by:
 - (a) the legislative body or governing board of an affected entity;
 - (b) the owner of rural real property as defined in Section 17B-2a-1107; or
 - (c) for a proposed annexation of an area within a county of the first class, the owners of private real property that:
 - (i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;
 - (ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and
 - (iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.
- (2)
 - (a) Each protest under Subsection (1) shall:
 - (i) be filed:
 - (A) no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i); and
 - (B)
 - (I) in a county that has already created a commission under Section 10-2-409, with the commission; or
 - (II) in a county that has not yet created a commission under Section 10-2-409, with the clerk of the county in which the area proposed for annexation is located;
 - (ii) state each reason for the protest of the annexation petition and, if the area proposed to be annexed is located in a specified county, justification for the protest under the standards established in this chapter;
 - (iii) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and
 - (iv) contain the name and address of a contact person who is to receive notices sent by the commission with respect to the protest proceedings.

- (b) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the city recorder or town clerk of the proposed annexing municipality.
- (c) Each clerk who receives a protest under Subsection (2)(a)(i)(B)(II) shall:
 - (i) immediately notify the county legislative body of the protest; and
 - (ii) deliver the protest to the boundary commission within five days after:
 - (A) receipt of the protest, if the boundary commission has previously been created; or
 - (B) creation of the boundary commission under Subsection 10-2-409(1)(b), if the boundary commission has not previously been created.
- (3)
 - (a)
 - (i) If a protest is filed under this section:
 - (A) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i)(A), deny the annexation petition; or
 - (B) if the municipal legislative body does not deny the annexation petition under Subsection (3)(a)(i)(A), the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.
 - (ii) If a municipal legislative body denies an annexation petition under Subsection (3)(a)(i)(A), the municipal legislative body shall, within five days after the denial, send notice of the denial in writing to:
 - (A) the contact sponsor of the annexation petition;
 - (B) the commission; and
 - (C) each entity that filed a protest.
 - (b)
 - (i) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection (3)(b)(ii), approve the petition.
 - (ii) Before approving an annexation petition under Subsection (3)(b)(i), the municipal legislative body shall:
 - (A) hold a public hearing; and
 - (B) at least seven days before the public hearing under Subsection (3)(b)(ii)(A):
 - (I)
 - (Aa) publish notice of the hearing in a newspaper of general circulation within the municipality and the area proposed for annexation; or
 - (Bb) if there is no newspaper of general circulation in those areas, post written notices of the hearing in conspicuous places within those areas that are most likely to give notice to residents within those areas; and
 - (II) publish notice of the hearing on the Utah Public Notice Website created in Section 63F-1-701.

Amended by Chapter 352, 2015 General Session

10-2-408 Denying or approving the annexation petition -- Notice of approval.

- (1) After receipt of the commission's decision on a protest under Subsection 10-2-416(2), a municipal legislative body may:
 - (a) deny the annexation petition; or
 - (b) subject to Subsection (2), if the commission approves the annexation, approve the annexation petition consistent with the commission's decision.

- (2) A municipal legislative body shall exclude rural real property, as that term is defined in Section 17B-2a-1107, unless the owner of the rural real property gives written consent to include the rural real property.

Amended by Chapter 352, 2015 General Session

10-2-409 Boundary commission -- Creation -- Members.

- (1) The legislative body of each county:
- (a) may create a boundary commission on its own initiative at any time; and
 - (b) shall create a boundary commission within 30 days of the filing of a protest under Section 10-2-407.
- (2) Each commission shall be composed of:
- (a) in a county with two or more municipalities:
 - (i) two members who are elected county officers, appointed by:
 - (A) (I) in a county of the first class operating under a form of government in which the executive and legislative functions are separated, the county executive with the advice and consent of the county legislative body; or
 - (II) in a county of the first class operating under a form of government in which the executive and legislative functions of the governing body are not separated, the county legislative body; or
 - (B) in a specified county, the county legislative body;
 - (ii) two members who are elected municipal officers from separate municipalities within the county, appointed by the municipal selection committee; and
 - (iii) three members who are residents of the county, none of whom is a county or municipal officer, appointed by the four other members of the boundary commission; and
- (b) in a county with only one municipality:
- (i) two members who are county elected officers, appointed by the county legislative body;
 - (ii) one member who is a municipal officer, appointed by the governing body of the municipality; and
 - (iii) two members who are residents of the county, neither of whom is a county or municipal officer, appointed by the other three members of the boundary commission.
- (3) At the expiration of the term of each member appointed under this section, the member's successor shall be appointed by the same body that appointed the member whose term is expiring, as provided in this section.

Amended by Chapter 206, 2001 General Session

10-2-409.5 Municipal selection committee.

- (1) In each county in which there are two or more municipalities there shall be a municipal selection committee consisting of the mayor of each municipality.
- (2) A majority of the members of the municipal selection committee constitutes a quorum.
- (3) The municipal selection committee shall appoint each municipal member of the county boundary commission under Subsection 10-2-409(2)(a)(iii) and fill each vacancy in that position as it occurs.

Enacted by Chapter 206, 2001 General Session

10-2-410 Boundary commission member terms -- Staggered terms -- Chair -- Quorum -- Vacancy.

- (1) Except as provided in Subsection (2), the term of each member of a boundary commission is four years and begins and expires the first Monday in January of the applicable year.
- (2) Notwithstanding Subsection (1), the terms of the first members of a commission shall be staggered by lot so that:
 - (a) on a seven-member commission, the term of one member is approximately one year, the term of two members is approximately two years, the term of two members is approximately three years, and the term of two members is approximately four years; and
 - (b) on a five-member commission, the term of two members is approximately two years and the term of the other three members is approximately four years.
- (3)
 - (a) The members of each boundary commission shall elect as chair a person from their number whose term on the boundary commission does not expire for at least two years.
 - (b) The term of a boundary commission chair is two years.
- (4) A majority of the commission constitutes a quorum, and commission action requires a majority vote of the commission.
- (5) Each vacancy on a commission of a member or an alternate member shall be filled for the remaining unexpired term of the vacating member by the body that appointed the vacating member under Section 10-2-409.

Amended by Chapter 206, 2001 General Session

10-2-411 Disqualification of commission member -- Alternate member.

- (1) A member of the boundary commission is disqualified with respect to a protest before the commission if that member owns property:
 - (a) for a proposed annexation of an area located within a county of the first class:
 - (i) within the area proposed for annexation in a petition that is the subject of the protest; or
 - (ii) that is in the unincorporated area within 1/2 mile of the area proposed for annexation in a petition that is the subject of a protest under Subsection 10-2-407(1)(c); or
 - (b) for a proposed annexation of an area located in a specified county, within the area proposed for annexation.
- (2) If a member is disqualified under Subsection (1), the body that appointed the disqualified member shall appoint an alternate member to serve on the commission for purposes of the protest as to which the member is disqualified.

Amended by Chapter 352, 2015 General Session

10-2-412 Boundary commission authority -- Expenses -- Records.

- (1) The boundary commission for each county shall hear and decide, according to the provisions of this part, each protest filed under Section 10-2-407, with respect to an area that is located within that county.
- (2) A boundary commission may:
 - (a) adopt and enforce rules of procedure for the orderly and fair conduct of its proceedings;
 - (b) authorize a member of the commission to administer oaths if necessary in the performance of the commission's duties;
 - (c) employ staff personnel and professional or consulting services reasonably necessary to enable the commission to carry out its duties; and

- (d) incur reasonable and necessary expenses to enable the commission to carry out its duties.
- (3) The legislative body of each county shall, with respect to the boundary commission in that county:
 - (a) furnish the commission necessary quarters, equipment, and supplies;
 - (b) pay necessary operating expenses incurred by the commission; and
 - (c) reimburse the reasonable and necessary expenses incurred by each member appointed under Subsection 10-2-409(2)(a)(iii) or (b)(iii), unless otherwise provided by interlocal agreement.
- (4) Each county or municipal legislative body shall reimburse the reasonable and necessary expenses incurred by a commission member who is an elected county or municipal officer, respectively.
- (5) Records, information, and other relevant materials necessary to enable the commission to carry out its duties shall, upon request by the commission, be furnished to the boundary commission by the personnel, employees, and officers of:
 - (a) for a proposed annexation of an area located in a county of the first class:
 - (i) each county, local district, and special service district whose boundaries include an area that is the subject of a protest under the commission's consideration; and
 - (ii) each municipality whose boundaries may be affected by action of the boundary commission; or
 - (b) for a proposed annexation of an area located in a specified county, each affected entity:
 - (i) whose boundaries include any part of the area proposed for annexation; or
 - (ii) that may be affected by action of the boundary commission.

Amended by Chapter 329, 2007 General Session

10-2-413 Feasibility consultant -- Feasibility study -- Modifications to feasibility study.

- (1)
 - (a) For a proposed annexation of an area located in a county of the first class, unless a proposed annexing municipality denies an annexation petition under Subsection 10-2-407(3)(a)(i)(A) and except as provided in Subsection (1)(b), the commission shall choose and engage a feasibility consultant within 45 days of:
 - (i) the commission's receipt of a protest under Section 10-2-407, if the commission had been created before the filing of the protest; or
 - (ii) the commission's creation, if the commission is created after the filing of a protest.
 - (b) Notwithstanding Subsection (1)(a), the commission may not require a feasibility study with respect to a petition that proposes the annexation of an area that:
 - (i) is undeveloped; and
 - (ii) covers an area that is equivalent to less than 5% of the total land mass of all private real property within the municipality.
- (2) The commission shall require the feasibility consultant to:
 - (a) complete a feasibility study on the proposed annexation and submit written results of the study to the commission no later than 75 days after the feasibility consultant is engaged to conduct the study;
 - (b) submit with the full written results of the feasibility study a summary of the results no longer than a page in length; and
 - (c) attend the public hearing under Subsection 10-2-415(1) and present the feasibility study results and respond to questions at that hearing.
- (3)

- (a) Subject to Subsection (4), the feasibility study shall consider:
- (i) the population and population density within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;
 - (ii) the geography, geology, and topography of and natural boundaries within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;
 - (iii) whether the proposed annexation eliminates, leaves, or creates an unincorporated island or unincorporated peninsula;
 - (iv) whether the proposed annexation will hinder or prevent a future and more logical and beneficial annexation or a future logical and beneficial incorporation;
 - (v) the fiscal impact of the proposed annexation on the remaining unincorporated area, other municipalities, local districts, special service districts, school districts, and other governmental entities;
 - (vi) current and five-year projections of demographics and economic base in the area proposed for annexation and surrounding unincorporated area, including household size and income, commercial and industrial development, and public facilities;
 - (vii) projected growth in the area proposed for annexation and the surrounding unincorporated area during the next five years;
 - (viii) the present and five-year projections of the cost of governmental services in the area proposed for annexation;
 - (ix) the present and five-year projected revenue to the proposed annexing municipality from the area proposed for annexation;
 - (x) the projected impact the annexation will have over the following five years on the amount of taxes that property owners within the area proposed for annexation, the proposed annexing municipality, and the remaining unincorporated county will pay;
 - (xi) past expansion in terms of population and construction in the area proposed for annexation and the surrounding unincorporated area;
 - (xii) the extension during the past 10 years of the boundaries of each other municipality near the area proposed for annexation, the willingness of the other municipality to annex the area proposed for annexation, and the probability that another municipality would annex some or all of the area proposed for annexation during the next five years if the annexation did not occur;
 - (xiii) the history, culture, and social aspects of the area proposed for annexation and surrounding area;
 - (xiv) the method of providing and the entity that has provided municipal-type services in the past to the area proposed for incorporation and the feasibility of municipal-type services being provided by the proposed annexing municipality; and
 - (xv) the effect on each school district whose boundaries include part or all of the area proposed for annexation or the proposed annexing municipality.
- (b) For purposes of Subsection (3)(a)(ix), the feasibility consultant shall assume ad valorem property tax rates on residential property within the area proposed for annexation at the same level that residential property within the proposed annexing municipality would be without the annexation.
- (c) For purposes of Subsection (3)(a)(viii), the feasibility consultant shall assume that the level and quality of governmental services that will be provided to the area proposed for annexation

in the future is essentially comparable to the level and quality of governmental services being provided within the proposed annexing municipality at the time of the feasibility study.

- (4)
 - (a) Except as provided in Subsection (4)(b), the commission may modify the depth of study of and detail given to the items listed in Subsection (3)(a) by the feasibility consultant in conducting the feasibility study depending upon:
 - (i) the size of the area proposed for annexation;
 - (ii) the size of the proposed annexing municipality;
 - (iii) the extent to which the area proposed for annexation is developed;
 - (iv) the degree to which the area proposed for annexation is expected to develop and the type of development expected; and
 - (v) the number and type of protests filed against the proposed annexation.
 - (b) Notwithstanding Subsection (4)(a), the commission may not modify the requirement that the feasibility consultant provide a full and complete analysis of the items listed in Subsections (3)(a)(viii), (ix), and (xv).
- (5) If the results of the feasibility study do not meet the requirements of Subsection 10-2-416(3), the feasibility consultant may, as part of the feasibility study, make recommendations as to how the boundaries of the area proposed for annexation may be altered so that the requirements of Subsection 10-2-416(3) may be met.
- (6)
 - (a) Except as provided in Subsection (6)(b), the feasibility consultant fees and expenses shall be shared equally by the proposed annexing municipality and each entity or group under Subsection 10-2-407(1) that files a protest.
 - (b)
 - (i) Except as provided in Subsection (6)(b)(ii), if a protest is filed by property owners under Subsection 10-2-407(1)(c), the county in which the area proposed for annexation shall pay the owners' share of the feasibility consultant's fees and expenses.
 - (ii) Notwithstanding Subsection (6)(b)(i), if both the county and the property owners file a protest, the county and the proposed annexing municipality shall equally share the property owners' share of the feasibility consultant's fees and expenses.

Amended by Chapter 352, 2015 General Session

10-2-414 Modified annexation petition -- Supplemental feasibility study.

- (1)
 - (a)
 - (i) If the results of the feasibility study with respect to a proposed annexation of an area located in a county of the first class do not meet the requirements of Subsection 10-2-416(3), the sponsors of the annexation petition may, within 45 days of the feasibility consultant's submission of the results of the study, file with the city recorder or town clerk of the proposed annexing municipality a modified annexation petition altering the boundaries of the proposed annexation.
 - (ii) On the date of filing a modified annexation petition under Subsection (1)(a)(i), the sponsors of the annexation petition shall deliver or mail a copy of the modified annexation petition to the clerk of the county in which the area proposed for annexation is located.
 - (b) Each modified annexation petition under Subsection (1)(a) shall comply with the requirements of Subsections 10-2-403(3), (4), and (5).
- (2)

- (a) Within 20 days of the city recorder or town clerk's receipt of the modified annexation petition, the city recorder or town clerk, as the case may be, shall follow the same procedure for the modified annexation petition as provided under Subsections 10-2-405(2) and (3)(a) for an original annexation petition.
- (b) If the city recorder or town clerk certifies the modified annexation petition under Subsection 10-2-405(2)(c)(i), the city recorder or town clerk, as the case may be, shall send written notice of the certification to:
 - (i) the commission;
 - (ii) each entity that filed a protest to the annexation petition; and
 - (iii) if a protest was filed under Subsection 10-2-407(1)(c), the contact person.
- (c)
 - (i) If the modified annexation petition proposes the annexation of an area that includes part or all of a local district, special service district, or school district that was not included in the area proposed for annexation in the original petition, the city recorder or town clerk, as the case may be, shall also send notice of the certification of the modified annexation petition to the board of the local district, special service district, or school district.
 - (ii) If the area proposed for annexation in the modified annexation petition is within 1/2 mile of the boundaries of a municipality whose boundaries were not within 1/2 mile of the area proposed for annexation in the original annexation petition, the city recorder or town clerk, as the case may be, shall also send notice of the certification of the modified annexation petition to the legislative body of that municipality.
- (3) Within 10 days of the commission's receipt of the notice under Subsection (2)(b), the commission shall engage the feasibility consultant that conducted the feasibility study to supplement the feasibility study to take into account the information in the modified annexation petition that was not included in the original annexation petition.
- (4) The commission shall require the feasibility consultant to complete the supplemental feasibility study and to submit written results of the supplemental study to the commission no later than 30 days after the feasibility consultant is engaged to conduct the supplemental feasibility study.

Amended by Chapter 352, 2015 General Session

10-2-415 Public hearing -- Notice.

- (1)
 - (a)
 - (i) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2-416(3) with respect to a proposed annexation of an area located in a county of the first class, the commission shall hold a public hearing within 30 days of receipt of the feasibility study or supplemental feasibility study results.
 - (ii) At the hearing under Subsection (1)(a)(i), the commission shall:
 - (A) require the feasibility consultant to present the results of the feasibility study and, if applicable, the supplemental feasibility study;
 - (B) allow those present to ask questions of the feasibility consultant regarding the study results; and
 - (C) allow those present to speak to the issue of annexation.
 - (iii)
 - (A) The commission shall:
 - (I) publish notice of each hearing under Subsection (1)(a)(i):

- (Aa) at least once a week for two successive weeks in a newspaper of general circulation within the area proposed for annexation, the surrounding 1/2 mile of unincorporated area, and the proposed annexing municipality; and
 - (Bb) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks; and
 - (II) send written notice of the hearing to the municipal legislative body of the proposed annexing municipality, the contact sponsor on the annexation petition, each entity that filed a protest, and, if a protest was filed under Subsection 10-2-407(1)(c), the contact person.
 - (B) In accordance with Subsection (1)(a)(iii)(A)(I)(Aa), if there is no newspaper of general circulation within the areas described in Subsection (1)(a)(iii)(A)(I)(Aa), the commission shall give the notice required under that subsection by posting notices, at least seven days before the hearing, in conspicuous places within those areas that are most likely to give notice of the hearing to the residents of those areas.
 - (C) The notice under Subsections (1)(a)(iii)(A) and (B) shall include the feasibility study summary under Subsection 10-2-413(2)(b) and shall indicate that a full copy of the study is available for inspection and copying at the office of the commission.
- (b)
- (i) Within 30 days after the time under Subsection 10-2-407(2) for filing a protest has expired with respect to a proposed annexation of an area located in a specified county, the boundary commission shall hold a hearing on all protests that were filed with respect to the proposed annexation.
 - (ii)
 - (A) At least 14 days before the date of each hearing under Subsection (1)(b)(i), the commission chair shall cause notice of the hearing to be published in a newspaper of general circulation within the area proposed for annexation.
 - (B) Each notice under Subsection (1)(b)(ii)(A) shall:
 - (I) state the date, time, and place of the hearing;
 - (II) briefly summarize the nature of the protest; and
 - (III) state that a copy of the protest is on file at the commission's office.
 - (iii) The commission may continue a hearing under Subsection (1)(b)(i) from time to time, but no continued hearing may be held later than 60 days after the original hearing date.
 - (iv) In considering protests, the commission shall consider whether the proposed annexation:
 - (A) complies with the requirements of Sections 10-2-402 and 10-2-403 and the annexation policy plan of the proposed annexing municipality;
 - (B) conflicts with the annexation policy plan of another municipality; and
 - (C) if the proposed annexation includes urban development, will have an adverse tax consequence on the remaining unincorporated area of the county.
- (2)
- (a) The commission shall record each hearing under this section by electronic means.
 - (b) A transcription of the recording under Subsection (2)(a), the feasibility study, if applicable, information received at the hearing, and the written decision of the commission shall constitute the record of the hearing.

Amended by Chapter 352, 2015 General Session

10-2-416 Commission decision -- Time limit -- Limitation on approval of annexation.

- (1) Subject to Subsection (3), after the public hearing under Subsection 10-2-415(1) the boundary commission may:

- (a) approve the proposed annexation, either with or without conditions;
 - (b) make minor modifications to the proposed annexation and approve it, either with or without conditions; or
 - (c) disapprove the proposed annexation.
- (2) The commission shall issue a written decision on the proposed annexation within 30 days after the conclusion of the hearing under Section 10-2-415 and shall send a copy of the decision to:
- (a) the legislative body of the county in which the area proposed for annexation is located;
 - (b) the legislative body of the proposed annexing municipality;
 - (c) the contact person on the annexation petition;
 - (d) the contact person of each entity that filed a protest; and
 - (e) if a protest was filed under Subsection 10-2-407(1)(c) with respect to a proposed annexation of an area located in a county of the first class, the contact person designated in the protest.
- (3) Except for an annexation for which a feasibility study may not be required under Subsection 10-2-413(1)(b), the commission may not approve a proposed annexation of an area located within a county of the first class unless the results of the feasibility study under Section 10-2-413 show that the average annual amount under Subsection 10-2-413(3)(a)(ix) does not exceed the average annual amount under Subsection 10-2-413(3)(a)(viii) by more than 5%.

Amended by Chapter 352, 2015 General Session

10-2-417 District court review -- Notice.

- (1) Review of a boundary commission decision may be sought in the district court with jurisdiction in the county in which the boundary commission is established by filing a petition for review of the decision within 20 days of the commission's decision under Section 10-2-416.
- (2) The district court review shall be on the record of the hearing under Section 10-2-415 and may not be de novo review.
- (3) The district court shall affirm the commission's decision unless the court determines that the decision is arbitrary or capricious.

Repealed and Re-enacted by Chapter 389, 1997 General Session

10-2-418 Annexation of an island or peninsula without a petition -- Notice -- Hearing.

- (1) For purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, "municipal-type services" for purposes of Subsection (2)(a)(ii)(B) does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as "political subdivision" is defined in Section 17B-1-102.
- (2)
 - (a) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:
 - (i)
 - (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;
 - (B) the majority of each island or peninsula consists of residential or commercial development;
 - (C) the area proposed for annexation requires the delivery of municipal-type services; and
 - (D) the municipality has provided most or all of the municipal-type services to the area for more than one year;

- (ii)
 - (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and
 - (B) the municipality has provided one or more municipal-type services to the area for at least one year; or
- (iii)
 - (A) the area consists of:
 - (I) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and
 - (II) for an area outside of the county of the first class proposed for annexation, no more than 50 acres; and
 - (B) the county in which the area is located, subject to Subsection (3)(b), and the municipality agree that the area should be included within the municipality.
- (b) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:
 - (i) in adopting the resolution under Subsection (4)(a)(i), the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and
 - (ii) for an annexation of one or more unincorporated islands under Subsection (2)(a)(ii), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (2)(a)(ii)(A) relating to the number of residents.
- (3)
 - (a) This Subsection (3) applies only to an annexation within a county of the first class.
 - (b) A county of the first class shall agree to the annexation if the majority of private property owners within the area to be annexed has indicated in writing, subject to Subsection (3)(d), to the city or town recorder of the annexing city or town the private property owners' consent to be annexed into the municipality.
 - (c) For purposes of Subsection (3)(b), the majority of private property owners is property owners who own:
 - (i) the majority of the total private land area within the area proposed for annexation; and
 - (ii) private real property equal to at least one half the value of private real property within the area proposed for annexation.
 - (d)
 - (i) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form: "Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418(4)(a)(iv)."
 - (e) A private property owner may withdraw the property owner's signature indicating consent by submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection (4)(a)(iv).
- (4)

- (a) The legislative body of each municipality intending to annex an area under this section shall:
 - (i) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed;
 - (ii) publish notice:
 - (A)
 - (I) at least once a week for three successive weeks in a newspaper of general circulation within the municipality and the area proposed for annexation; or
 - (II) if there is no newspaper of general circulation in the areas described in Subsection (4)(a)(ii)(A), post at least one notice per 1,000 population in places within those areas that are most likely to give notice to the residents of those areas; and
 - (B) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks;
 - (iii) send written notice to the board of each local district and special service district whose boundaries contain some or all of the area proposed for annexation and to the legislative body of the county in which the area proposed for annexation is located; and
 - (iv) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution under Subsection (4)(a)(i).
 - (b) Each notice under Subsections (4)(a)(ii) and (iii) shall:
 - (i) state that the municipal legislative body has adopted a resolution indicating its intent to annex the area proposed for annexation;
 - (ii) state the date, time, and place of the public hearing under Subsection (4)(a)(iv);
 - (iii) describe the area proposed for annexation; and
 - (iv) except for an annexation that meets the property owner consent requirements of Subsection (5)(b), state in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing under Subsection (4)(a)(iv), written protests to the annexation are filed by the owners of private real property that:
 - (A) is located within the area proposed for annexation;
 - (B) covers a majority of the total private land area within the entire area proposed for annexation; and
 - (C) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.
 - (c) The first publication of the notice required under Subsection (4)(a)(ii)(A) shall be within 14 days of the municipal legislative body's adoption of a resolution under Subsection (4)(a)(i).
- (5)
- (a) Upon conclusion of the public hearing under Subsection (4)(a)(iv), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the city recorder or town clerk, as the case may be, by the owners of private real property that:
 - (i) is located within the area proposed for annexation;
 - (ii) covers a majority of the total private land area within the entire area proposed for annexation; and
 - (iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.
 - (b)
 - (i) Upon conclusion of the public hearing under Subsection (4)(a)(iv), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection (5)(a) if the owners of at least 75% of the total private land area within the entire area proposed for annexation,

representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation.

- (ii) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (5)(b)(i), the area annexed shall be conclusively presumed to be validly annexed.
- (6)
 - (a) If protests are timely filed that comply with Subsection (5), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.
 - (b) Subsection (6)(a) may not be construed to prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (2)(a)(ii) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection (2)(b) to annex some or all of the remaining portion of the unincorporated island.

Amended by Chapter 352, 2015 General Session

10-2-419 Boundary adjustment -- Notice and hearing -- Protest.

- (1) The legislative bodies of two or more municipalities having common boundaries may adjust their common boundaries as provided in this section.
- (2)
 - (a) The legislative body of each municipality intending to adjust a boundary that is common with another municipality shall:
 - (i) adopt a resolution indicating the intent of the municipal legislative body to adjust a common boundary;
 - (ii) hold a public hearing on the proposed adjustment no less than 60 days after the adoption of the resolution under Subsection (2)(a)(i); and
 - (iii)
 - (A) publish notice:
 - (I) at least once a week for three successive weeks in a newspaper of general circulation within the municipality; or
 - (II) if there is no newspaper of general circulation within the municipality, post at least one notice per 1,000 population in places within the municipality that are most likely to give notice to residents of the municipality; and
 - (B) on the Utah Public Notice Website created in Section 63F-1-701 for three weeks.
 - (b) The notice required under Subsection (2)(a)(iii) shall:
 - (i) state that the municipal legislative body has adopted a resolution indicating the municipal legislative body's intent to adjust a boundary that the municipality has in common with another municipality;
 - (ii) describe the area proposed to be adjusted;
 - (iii) state the date, time, and place of the public hearing required under Subsection (2)(a)(ii);
 - (iv) state in conspicuous and plain terms that the municipal legislative body will adjust the boundaries unless, at or before the public hearing under Subsection (2)(a)(ii), written protests to the adjustment are filed by the owners of private real property that:
 - (A) is located within the area proposed for adjustment;
 - (B) covers at least 25% of the total private land area within the area proposed for adjustment; and
 - (C) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment;

- (v) state that the area that is the subject of the boundary adjustment will, because of the boundary adjustment, be automatically annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:
 - (A) the municipality to which the area is being added because of the boundary adjustment is entirely within the boundaries of a local district:
 - (I) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and
 - (II) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and
 - (B) the municipality from which the area is being taken because of the boundary adjustment is not within the boundaries of the local district; and
- (vi) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services, as provided in Subsection 17B-1-502(2), if:
 - (A) the municipality to which the area is being added because of the boundary adjustment is not within the boundaries of a local district:
 - (I) that provides fire protection, paramedic, and emergency services; and
 - (II) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and
 - (B) the municipality from which the area is being taken because of the boundary adjustment is entirely within the boundaries of the local district.
- (c) The first publication of the notice required under Subsection (2)(a)(iii)(A) shall be within 14 days of the municipal legislative body's adoption of a resolution under Subsection (2)(a)(i).
- (3) Upon conclusion of the public hearing under Subsection (2)(a)(ii), the municipal legislative body may adopt an ordinance approving the adjustment of the common boundary unless, at or before the hearing under Subsection (2)(a)(ii), written protests to the adjustment have been filed with the city recorder or town clerk, as the case may be, by the owners of private real property that:
 - (a) is located within the area proposed for adjustment;
 - (b) covers at least 25% of the total private land area within the area proposed for adjustment; and
 - (c) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment.
- (4) The municipal legislative body shall comply with the requirements of Section 10-2-425 as if the boundary adjustment were an annexation.
- (5)
 - (a) An ordinance adopted under Subsection (3) becomes effective when each municipality involved in the boundary adjustment has adopted an ordinance under Subsection (3).
 - (b) The effective date of a boundary adjustment under this section is governed by Section 10-2-425.

Amended by Chapter 90, 2010 General Session

10-2-420 Bonds not affected by boundary adjustments or annexations -- Payment of property taxes.

- (1) A boundary adjustment or annexation under this part may not jeopardize or endanger any general obligation or revenue bond.
- (2) A bondholder may require the payment of property taxes from any area that:

- (a) was included in the taxable value of the municipality or other governmental entity issuing the bond at the time the bond was issued; and
- (b) is no longer within the boundaries of the municipality or other governmental entity issuing the bond due to the boundary adjustment or annexation.

Repealed and Re-enacted by Chapter 389, 1997 General Session

10-2-421 Electric utility service in annexed area -- Reimbursement for value of facilities -- Liability -- Arbitration.

(1) As used in this section:

- (a) "Commission" means the Public Service Commission established in Section 54-1-1.
 - (b) "Current replacement cost" means the cost the transferring party would incur to construct the facility at the time of transfer using the transferring party's:
 - (i) standard estimating rates and standard construction methodologies for the facility; and
 - (ii) standard estimating process.
 - (c) "Depreciation" means an amount calculated:
 - (i) based on:
 - (A) the life and depreciation mortality curve most recently set for the type of facility in the depreciation rates set by the commission or other governing regulatory authority for the electrical corporation; or
 - (B) a straight-line depreciation rate that represents the expended life if agreed to by the transferring and receiving parties; and
 - (ii) to include the gross salvage value of the type of facility based on the latest depreciation life approved by the commission or other governing regulatory authority for the electrical corporation, with a floor at the gross salvage value of the asset and in no case less than zero.
 - (d) "Electrical corporation" means:
 - (i) an entity as defined in Section 54-2-1; and
 - (ii) an improvement district system described in Subsection 17B-2a-403(1)(a)(iv).
 - (e) "Facility" means electric equipment or infrastructure used to serve an electric customer, above ground or underground, including:
 - (i) a power line, transformer, switch gear, pole, wire, guy anchor, conductor, cable, or other related equipment; or
 - (ii) a right-of-way, easement, or any other real property interest or legal right or interest used to operate and maintain the electric equipment or infrastructure.
 - (f) "Facility transfer" means the transfer of a facility from a transferring party to a receiving party in accordance with Subsection (3).
 - (g) "Lost or stranded facility" means a facility that is currently used by a transferring party that will no longer be used, whether in whole or in part, as a result of a facility transfer.
 - (h) "Receiving party" means a municipality or electrical corporation to whom a facility is transferred.
 - (i) "Transferring party" means a municipality or electrical corporation that transfers a facility.
- (2) If an electric customer in an area being annexed by a municipality receives electric service from an electrical corporation, the municipality may not, without the agreement of the electrical corporation, furnish municipal electric service to the electric customer in the annexed area until the municipality has reimbursed the electrical corporation for the value of each facility used to serve each electric customer within the annexed area, including the value of any facility owned

by a wholesale electric cooperative affiliated with the electrical corporation, dedicated to provide service to the annexed area.

- (3) The following procedures shall apply if a municipality transfers a facility to an electrical corporation in accordance with Section 10-8-14 or if an electrical corporation transfers a facility to a municipality in accordance with Subsection (2), Section 54-3-30, or 54-3-31:
 - (a) The transferring party shall provide a written estimate of the transferring party's cost of preparing the inventory required in Subsection (3)(c) to the receiving party no later than 60 days after the date of notice from the receiving party.
 - (b)
 - (i) The receiving party shall pay the estimated cost of preparing the inventory to the transferring party no later than 60 days after the day that the receiving party receives the written estimate.
 - (ii) If the actual cost of preparing the inventory differs from the estimated cost, the transferring party shall include the difference between the actual cost and the estimated cost in the reimbursement described in Subsection (5).
 - (c) Except as provided in Subsection (3)(f), the transferring party shall prepare, in accordance with Subsection (4), and deliver the inventory to the receiving party no later than 180 days after the day that the transferring party receives the payment specified in Subsection (3)(b).
 - (d)
 - (i) At any time, the parties may by agreement correct or update the inventory.
 - (ii) If the parties are unable to reach an agreement on an updated inventory, they shall:
 - (A) proceed with the facility transfer and reimbursement based on the inventory as submitted in accordance with Subsection (3)(c); and
 - (B) resolve their dispute as provided in Subsection (6).
 - (e) Except as provided in Subsection (3)(f), the parties shall complete each facility transfer and reimbursement contemplated by this Subsection (3) no later than 180 days after the date that the transferring party delivers the inventory to the receiving party in accordance with Subsection (3)(c).
 - (f) The periods specified in Subsections (3)(c) and (e) may be extended for up to an additional 90 days by agreement of the parties.
- (4)
 - (a) The inventory prepared by a transferring party in accordance with Subsection (3)(c) shall include an identification of each facility to be transferred and the amount of reimbursement as provided in Subsection (5).
 - (b) The transferring party may not include in the inventory a facility that the transferring party removed from service for at least 36 consecutive months prior to the date of the inventory, unless the facility was taken out of service as a result of an action by the receiving party.
- (5)
 - (a) Unless otherwise agreed by the parties, the reimbursement for the transfer of each facility shall include:
 - (i) the cost of preparing the inventory as provided in Subsection (3)(b);
 - (ii) subject to Subsection (5)(b)(i), the value of each transferred facility calculated by the current replacement cost of the facility less depreciation based on facility age;
 - (iii) the cost incurred by the transferring party for:
 - (A) the physical separation of each facility from its system, including the cost of any facility constructed or installed that is necessary for the transferring party to continue to provide reliable electric service to its remaining customers;

- (B) administrative, engineering, and record keeping expenses incurred by the transferring party for the transfer of each facility to the receiving party, including any difference between the actual cost of preparing the inventory and the estimated cost of preparing the inventory; and
 - (C) reimbursement for any tax consequences to the transferring party resulting from each facility transfer;
 - (iv) the value of each lost or stranded facility of the transferring party based on the valuation formula described in Subsection (5)(a)(ii) or as otherwise agreed by the parties;
 - (v) the diminished value of each transferring party facility that will not be transferred based on the percentage of the facility that will no longer be used as a result of the facility transfer; and
 - (vi) the transferring party's book value of a right-of-way or easement transferred with each facility.
- (b)
- (i)
 - (A) The receiving party may review the estimation of the current replacement costs of each facility, including the wage rates, material costs, overhead assumptions, and other pricing used to establish the estimation of the current replacement costs of the facility.
 - (B) Prior to reviewing the estimation, the receiving party shall enter into a nondisclosure agreement acceptable to the transferring party.
 - (C) The nondisclosure agreement shall restrict the use of the information provided by the transferring party solely for the purpose of reviewing the estimation of the current replacement cost and preserve the confidentiality of the information to prevent any effect on a competitive bid received by either party.
 - (ii)
 - (A) If the age of a facility may be readily determined by the transferring party, the transferring party shall use that age to determine the facility's depreciation.
 - (B) If the age of a facility cannot be readily determined, the transferring party shall estimate the age of the facility based on the average remaining life approved for the same type of facility in the most current depreciation rates set by the commission or other governing regulatory authority for the electrical corporation.
- (c)
- (i)
 - (A) A transferring party that transfers a facility in accordance with this section shall, upon delivery of a document conveying title to the receiving party, transfer the facility without any express or implied warranties.
 - (B) A receiving party that receives a facility in accordance with this section shall, upon receipt of a document conveying title, accept the facility in its existing condition and assume any and all liability, fault, risk, or potential loss arising from or related to the facility.
 - (ii) Notwithstanding Subsection (5)(c)(i), if, within six months after the date that any oil filled equipment is transferred, the receiving party discovers that a transferred oil filled equipment contains polychlorinated biphenyl, the transferring party shall reimburse the receiving party for the cost of testing and disposal of that oil filled equipment.
- (6)
- (a) If the parties cannot agree on each facility to be transferred or the respective reimbursement amount, the parties shall:

- (i) proceed with the facility transfer and the reimbursement based on the inventory as submitted by the transferring party in accordance with Subsection (3)(c) and in accordance with the schedule provided in Subsection (3)(e); and
 - (ii) submit the dispute for mediation or arbitration.
- (b) The parties shall share equally in the costs of mediation or arbitration.
- (c) If the parties are unable to resolve the dispute through mediation or arbitration, either party may bring an action in the state court of jurisdiction.
- (d) The arbitrator, or state court if the parties cannot agree on arbitration, shall determine each facility to be transferred and the amount to be reimbursed in accordance with Subsection (5).
- (e) If the arbitrator or state court determines that:
 - (i) a transferring party transferred a facility that should not have been transferred, the receiving party shall return the facility;
 - (ii) a party did not transfer a facility that should have been transferred, the party that should have transferred the facility shall transfer the facility to the party to whom the facility should have been transferred;
 - (iii) the amount reimbursed by the receiving party is insufficient, the receiving party shall pay the difference to the transferring party; or
 - (iv) the amount reimbursed by the receiving party is more than the amount that should have been reimbursed, the transferring party shall pay the difference to the receiving party.
- (7) Unless otherwise agreed upon in writing by the parties:
 - (a) a party shall transfer a facility to be transferred in accordance with Subsection (6)(e) no later than 60 days after the day that the arbitrator or court issues a determination unless the parties mutually agree to a longer time to complete the transfer; and
 - (b) a party shall:
 - (i) pay an amount required to be paid in accordance with Subsection (6)(e) no later than 30 days after the day that the arbitrator or court issues a determination; and
 - (ii) include interest in the payment at the overall rate of return on the rate base most recently authorized by the commission or other governing regulatory agency for the electrical corporation from the date the reimbursement was originally paid until the difference is paid.
- (8)
 - (a) Nothing in this section limits the availability of other damages under law arising by virtue of an agreement between the municipality and the electrical corporation.
 - (b) Notwithstanding Subsection (8)(a), a party described in this section is not entitled to an award for:
 - (i) damages that are indirect, incidental, punitive, exemplary, or consequential;
 - (ii) lost profits; or
 - (iii) other business interruption damages.
- (9) Nothing in this section or Section 10-8-14, 54-3-30, or 54-3-31 applies to a transfer of facilities from an electrical corporation to a municipality in accordance with a decision by a municipality that did not previously provide electric service and seeks to commence providing electric service to a customer currently served by an electrical corporation within the municipal boundary.

Repealed and Re-enacted by Chapter 242, 2013 General Session

10-2-422 Conclusive presumption of annexation.

An area annexed to a municipality under this part shall be conclusively presumed to have been validly annexed if:

- (1) the municipality has levied and the taxpayers within the area have paid property taxes for more than one year after annexation; and
- (2) no resident of the area has contested the annexation in a court of proper jurisdiction during the year following annexation.

Repealed and Re-enacted by Chapter 389, 1997 General Session

10-2-425 Filing of notice and plat -- Recording and notice requirements -- Effective date of annexation or boundary adjustment.

- (1) The legislative body of each municipality that enacts an ordinance under this part approving the annexation of an unincorporated area or the adjustment of a boundary, or the legislative body of an eligible city, as defined in Section 10-2a-403, that annexes an unincorporated island upon the results of an election held in accordance with Section 10-2a-404, shall:
 - (a) within 30 days after enacting the ordinance or the day of the election or, in the case of a boundary adjustment, within 30 days after each of the municipalities involved in the boundary adjustment has enacted an ordinance, file with the lieutenant governor:
 - (i) a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
 - (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and
 - (b) upon the lieutenant governor's issuance of a certificate of annexation or boundary adjustment, as the case may be, under Section 67-1a-6.5:
 - (i)
 - (A) if the annexed area or area subject to the boundary adjustment is located within the boundary of a single county, submit to the recorder of that county:
 - (I) the original:
 - (Aa) notice of an impending boundary action;
 - (Bb) certificate of annexation or boundary adjustment; and
 - (Cc) approved final local entity plat; and
 - (II) a certified copy of the ordinance approving the annexation or boundary adjustment; or
 - (B) if the annexed area or area subject to the boundary adjustment is located within the boundaries of more than a single county:
 - (I) submit to the recorder of one of those counties:
 - (Aa) the original of the documents listed in Subsections (1)(b)(i)(A)(I)(Aa), (Bb), and (Cc); and
 - (Bb) a certified copy of the ordinance approving the annexation or boundary adjustment; and
 - (II) submit to the recorder of each other county:
 - (Aa) a certified copy of the documents listed in Subsections (1)(b)(i)(A)(I)(Aa), (Bb), and (Cc); and
 - (Bb) a certified copy of the ordinance approving the annexation or boundary adjustment;
 - (ii) send notice of the annexation or boundary adjustment to each affected entity; and
 - (iii) in accordance with Section 26-8a-414, file with the Department of Health:
 - (A) a certified copy of the ordinance approving the annexation of an unincorporated area or the adjustment of a boundary; and
 - (B) a copy of the approved final local entity plat.
 - (2) If an annexation or boundary adjustment under this part or Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, also causes an automatic annexation to a local district under Section 17B-1-416 or

an automatic withdrawal from a local district under Subsection 17B-1-502(2), the municipal legislative body shall, as soon as practicable after the lieutenant governor issues a certificate of annexation or boundary adjustment under Section 67-1a-6.5, send notice of the annexation or boundary adjustment to the local district to which the annexed area is automatically annexed or from which the annexed area is automatically withdrawn.

- (3) Each notice required under Subsection (1) relating to an annexation or boundary adjustment shall state the effective date of the annexation or boundary adjustment, as determined under Subsection (4).
- (4) An annexation or boundary adjustment under this part is completed and takes effect:
 - (a) for the annexation of or boundary adjustment affecting an area located in a county of the first class, except for an annexation under Section 10-2-418:
 - (i) July 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:
 - (A) the certificate is issued during the preceding November 1 through April 30; and
 - (B) the requirements of Subsection (1) are met before that July 1; or
 - (ii) January 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:
 - (A) the certificate is issued during the preceding May 1 through October 31; and
 - (B) the requirements of Subsection (1) are met before that January 1; and
 - (b) subject to Subsection (5), for all other annexations and boundary adjustments, the date of the lieutenant governor's issuance, under Section 67-1a-6.5, of a certificate of annexation or boundary adjustment.
- (5) If an annexation of an unincorporated island is based upon the results of an election held in accordance with Section 10-2a-404:
 - (a) the county and the annexing municipality may agree to a date on which the annexation is complete and takes effect; and
 - (b) the lieutenant governor shall issue, under Section 67-1a-6.5, a certification of annexation on the date agreed to under Subsection (5)(a).
- (6)
 - (a) As used in this Subsection (6):
 - (i) "Affected area" means:
 - (A) in the case of an annexation, the annexed area; and
 - (B) in the case of a boundary adjustment, any area that, as a result of the boundary adjustment, is moved from within the boundary of one municipality to within the boundary of another municipality.
 - (ii) "Annexing municipality" means:
 - (A) in the case of an annexation, the municipality that annexes an unincorporated area; and
 - (B) in the case of a boundary adjustment, a municipality whose boundary includes an affected area as a result of a boundary adjustment.
 - (b) The effective date of an annexation or boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.
 - (c) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a municipality may not:
 - (i) levy or collect a property tax on property within an affected area;
 - (ii) levy or collect an assessment on property within an affected area; or
 - (iii) charge or collect a fee for service provided to property within an affected area, unless the municipality was charging and collecting the fee within that area immediately before annexation.

Amended by Chapter 352, 2015 General Session

10-2-426 Division of municipal-type services revenues.

- (1) The legislative body of each county of the first class in which an area proposed for annexation under this part is located shall, until the date of annexation, continue:
 - (a) to levy and collect ad valorem property tax and other revenues from or pertaining to the area; and
 - (b) except as otherwise agreed by the county legislative body and the municipal legislative body, to provide the same services to the area proposed for annexation as the county provided before the commencement of the annexation proceedings.
- (2)
 - (a) The legislative body of each county of the first class in which an area proposed for annexation is located shall, after annexation, share pro rata with the annexing municipality the taxes and service charges or fees levied and collected by the county under Section 17-34-3 during the year of the annexation if and to the extent that the annexing municipality provides, by itself or by contract, the same services for which the county levied and collected the taxes and service charges or fees.
 - (b) The pro rata allocation of taxes under Subsection (2)(a) shall be based on the date of annexation, and the pro rata allocation of service charges and fees shall be based on the proportion of services related to the service charges and fees that remain to be rendered after annexation.

Amended by Chapter 206, 2001 General Session

10-2-428 Neither annexation nor boundary adjustment has an effect on the boundaries of most local districts or special service districts.

Except as provided in Section 17B-1-416 and Subsection 17B-1-502(2), the annexation of an unincorporated area by a municipality or the adjustment of a boundary shared by municipalities does not affect the boundaries of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

Amended by Chapter 360, 2008 General Session

Part 5
Restriction of Municipal Limits

10-2-501 Municipal disconnection -- Definitions -- Request for disconnection -- Requirements upon filing request.

- (1) As used in this part "petitioners" means persons who:
 - (a) own title to real property within the area proposed for disconnection; and
 - (b) have signed a request for disconnection proposing to disconnect that area from the municipality.
- (2)

- (a) Petitioners proposing to disconnect an area within and lying on the borders of a municipality shall file with that municipality's legislative body a request for disconnection.
- (b) Each request for disconnection shall:
 - (i) contain the names, addresses, and signatures of the owners of more than 50% of the real property in the area proposed for disconnection;
 - (ii) give the reasons for the proposed disconnection;
 - (iii) include a map or plat of the territory proposed for disconnection; and
 - (iv) designate between one and five persons with authority to act on the petitioners' behalf in the proceedings.
- (3) Upon filing the request for disconnection, petitioners shall:
 - (a) cause notice of the request to be published:
 - (i) once a week for three consecutive weeks in a newspaper of general circulation within the municipality; and
 - (ii) in accordance with Section 45-1-101 for three weeks;
 - (b) cause notice of the request to be mailed to each owner of real property located within the area proposed to be disconnected; and
 - (c) deliver a copy of the request to the legislative body of the county in which the area proposed for disconnection is located.

Amended by Chapter 388, 2009 General Session

10-2-502.5 Hearing on request for disconnection -- Determination by municipal legislative body -- Petition in district court.

- (1) Within 30 calendar days after the last publication of notice required under Subsection 10-2-501(3)(a), the legislative body of the municipality in which the area proposed for disconnection is located shall hold a public hearing.
- (2) At least seven calendar days before the hearing date, the municipal legislative body shall provide notice of the public hearing:
 - (a) in writing to the petitioners and to the legislative body of the county in which the area proposed for disconnection is located; and
 - (b) by publishing a notice:
 - (i)
 - (A) in a newspaper of general circulation within the municipality; or
 - (B) if there is no newspaper as described in Subsection (2)(b)(i)(A), then by posting notice of the hearing in at least three public places within the municipality; and
 - (ii) on the Utah Public Notice Website created in Section 63F-1-701.
- (3) In the public hearing, any person may speak and submit documents regarding the disconnection proposal.
- (4) Within 45 calendar days of the hearing, the municipal legislative body shall:
 - (a) determine whether to grant the request for disconnection; and
 - (b) if the municipality determines to grant the request, adopt an ordinance approving disconnection of the area from the municipality.
- (5)
 - (a) A petition against the municipality challenging the municipal legislative body's determination under Subsection (4) may be filed in district court by:
 - (i) petitioners; or
 - (ii) the county in which the area proposed for disconnection is located.
 - (b) Each petition under Subsection (5)(a) shall include a copy of the request for disconnection.

Amended by Chapter 90, 2010 General Session

10-2-502.7 Court action.

- (1) After the filing of a petition under Section 10-2-502.5 and a response to the petition, the court shall, upon request of a party or upon its own motion, conduct a court hearing.
- (2) At the hearing, the court shall hear evidence regarding the viability of the disconnection proposal.
- (3) The burden of proof is on petitioners who must prove, by a preponderance of the evidence:
 - (a) the viability of the disconnection;
 - (b) that justice and equity require that the territory be disconnected from the municipality;
 - (c) that the proposed disconnection will not:
 - (i) leave the municipality with an area within its boundaries for which the cost, requirements, or other burdens of providing municipal services would materially increase over previous years;
 - (ii) make it economically or practically unfeasible for the municipality to continue to function as a municipality; or
 - (iii) leave or create one or more islands or peninsulas of unincorporated territory; and
 - (d) that the county in which the area proposed for disconnection is located is capable, in a cost-effective manner and without materially increasing the county's costs of providing municipal services, of providing to the area the services that the municipality will no longer provide to the area due to the disconnection.
- (4) In determining whether petitioners have met their burden of proof with respect to Subsections (3)(c)(i) and (ii), the court shall consider all relevant factors, including the effect of the proposed disconnection on:
 - (a) the municipality or community as a whole;
 - (b) adjoining property owners;
 - (c) existing or projected streets or public ways;
 - (d) water mains and water services;
 - (e) sewer mains and sewer services;
 - (f) law enforcement;
 - (g) zoning; and
 - (h) other municipal services.
- (5) The court's order either ordering or rejecting disconnection shall be in writing with findings and reasons.

Renumbered and Amended by Chapter 279, 2003 General Session

10-2-506 Taxes to meet municipal obligations.

- (1) If the court orders a disconnection of territory from a municipality, the court shall also order the county legislative body to levy taxes on the property within the disconnected territory that may be required to pay the territory's proportionate share of the municipal obligations accrued while the territory was part of the municipality.
- (2) Any tax levy ordered by the court under Subsection (1) shall be collected by the county treasurer in the same manner as though the disconnected territory were a municipality.
- (3) The county treasurer shall pay to those entities named by the court the revenue received from that tax levy.

Amended by Chapter 132, 1996 General Session

10-2-507 Disconnection ordinance or decree -- Filing of notice and plat -- Recording requirements -- Effective date of disconnection -- Costs of disconnection.

- (1) As used in this section, "disconnection action" means:
 - (a) the municipal legislative body's adoption of an ordinance under Subsection 10-2-502.5(4)(b) approving disconnection; or
 - (b) the entry of a court order under Section 10-2-502.7 ordering disconnection.
- (2) The municipal legislative body shall:
 - (a) within 30 days after the disconnection action, file with the lieutenant governor:
 - (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
 - (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and
 - (b) upon the lieutenant governor's issuance of a certificate of disconnection under Section 67-1a-6.5:
 - (i) if the disconnected area is located within the boundary of a single county, submit to the recorder of that county:
 - (A) the original:
 - (I) notice of an impending boundary action;
 - (II) certificate of disconnection; and
 - (III) approved final local entity plat; and
 - (B) a certified copy of the ordinance approving the disconnection or court order ordering disconnection; or
 - (ii) if the disconnected area is located within the boundaries of more than a single county:
 - (A) submit to the recorder of one of those counties:
 - (I) the original of the documents listed in Subsections (2)(b)(i)(A)(I), (II), and (III); and
 - (II) a certified copy of the ordinance approving the disconnection or the court order ordering disconnection; and
 - (B) submit to the recorder of each other county:
 - (I) a certified copy of the documents listed in Subsections (2)(b)(i)(A)(I), (II), and (III); and
 - (II) a certified copy of the ordinance approving the disconnection or the court order ordering disconnection.
 - (3) The disconnection is effective upon the lieutenant governor's issuance of a certificate of disconnection under Section 67-1a-6.5.
 - (4)
 - (a) The effective date of a disconnection for purposes of assessing property within the disconnected territory is governed by Section 59-2-305.5.
 - (b) Until the documents listed in Subsection (2)(b) are recorded in the office of the recorder of each county in which the property is located, a county in which the disconnected territory is located may not:
 - (i) except as provided in Section 10-2-506, levy or collect a property tax on property within the disconnected territory unless the county was levying and collecting the tax immediately before disconnection;
 - (ii) levy or collect an assessment on property within the disconnected territory unless the county was levying and collecting the assessment immediately before disconnection; or
 - (iii) charge or collect a fee for service provided to property within the disconnected territory unless the county was charging and collecting the fee immediately before disconnection.

- (5) Any cost incurred by the municipality in complying with this section may be charged against the disconnected territory.

Amended by Chapter 350, 2009 General Session

10-2-509 Costs.

Each party to the court action for disconnection shall pay its own witnesses and petitioners shall pay all other costs.

Enacted by Chapter 48, 1977 General Session

10-2-510 Boundary adjustment procedure not affected.

This part may not be construed to abrogate, modify, or replace the boundary adjustment procedure provided in Section 10-2-419.

Amended by Chapter 378, 2010 General Session

Part 6

Consolidation of Municipalities

10-2-601 Consolidation of two or more municipalities.

The process for consolidating municipalities shall begin by filing with the county legislative bodies of the respective counties in which the municipalities are located:

- (1) resolutions passed by the governing bodies of the municipalities which state their intention and desire to form a consolidated municipality; or
- (2) petitions signed by at least 10% of the registered voters in each of the municipalities to be included with the boundaries of the consolidated municipality.

Amended by Chapter 227, 1993 General Session

10-2-602 Contents of resolution or petition.

- (1) The resolution of the governing body or the petition of the electors shall include:
 - (a) a statement fully describing each of the areas to be included within the consolidated municipality;
 - (b) the name of the proposed consolidated municipality; and
 - (c) the names of the municipalities to be consolidated.
- (2)
 - (a) The resolution or petition shall state the population of each of the municipalities within the area of the proposed consolidated municipality and the total population of the proposed consolidated municipality.
 - (b)
 - (i) The population figure under Subsection (2)(a) shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.
 - (ii) If the population figure is not available from the United States Bureau of the Census, the population figure shall be derived from the estimate from the Utah Population Estimates Committee.

Amended by Chapter 318, 2000 General Session

10-2-603 Plan of consolidation.

The resolution for consolidation shall have attached a plan approved by the governing bodies, properly executed by the mayors and attested by the recorders setting forth the nature of the obligations, assets, and liabilities of the municipalities to be included within the proposed consolidated municipality. The plan shall include a list of every public utility or property on which any debt is owed or due, all or any part of which is payable from the revenues of the utility or property, or from taxes which have been levied and which are outstanding at the time the proposed consolidation is to become effective. The plan shall also specify the rights, duties, and obligations of the proposed consolidated municipality.

Amended by Chapter 92, 1987 General Session

10-2-604 Duty of county legislative body when petition is by electors.

When the petition for consolidation is properly presented by the electors, the county legislative bodies and officers of each of the respective municipalities shall, within 15 days after the filing of the petition with the county legislative bodies, cause to be filed with the county legislative bodies a plan of consolidation containing the same information as is required in Section 10-2-603.

Amended by Chapter 227, 1993 General Session

10-2-605 Effect of plan of consolidation.

The plan of consolidation shall be subordinate in all respects to the contract rights of all holders of any securities or obligations of the municipality outstanding at the effective date of the consolidation. The plan shall be available to the public for inspection and copying. The plan may extend for a period of up to 20 years, except that those provisions necessary for the protection of the holders of any securities or other obligations of any municipalities being consolidated shall extend for such longer time as may be necessary to ensure the payment of the securities and obligations. Any person may enforce the provisions and terms of the plan during the period in which the plan is effective. After the expiration of the period of the plan, the rights, duties and obligations stated in the plan shall be governed by the laws of the State of Utah and not by the plan. The plan shall be effective only if the consolidation is approved by the voters of the respective municipalities to be consolidated.

Enacted by Chapter 48, 1977 General Session

10-2-606 Public hearings.

The governing body of each municipality in its plan for consolidation shall set a time and place for a public hearing or public hearings which shall be held at least 10 days after the plan of consolidation and the dates of the public hearing have been submitted to the county legislative bodies. The public hearing may be held jointly or separately by the governing bodies of each municipality to be consolidated. Any interested person may be heard on any aspect of the proposed consolidation. One or more certified copies of the plan of consolidation shall be available in the recorder's office of each municipality at least five days prior to the hearing.

Amended by Chapter 227, 1993 General Session

10-2-607 Notice of election.

If the county legislative bodies find that the resolution or petition for consolidation and their attachments substantially conform with the requirements of this part, they shall give notice of the election for consolidation to the electors of each municipality which would become part of the consolidated municipality by publication:

- (1) in a newspaper having a general circulation within the boundaries of each municipality to be consolidated at least once a week for four consecutive weeks prior to the election on the question of consolidation; and
- (2) in accordance with Section 45-1-101 for four weeks.

Amended by Chapter 5, 2009 Special Session 1
Amended by Chapter 5, 2009 Special Session 1

10-2-608 Contents of notice.

The notice required in the preceding section shall contain a summary of:

- (1) the contents of the resolutions or petitions for consolidation;
- (2) the consolidation plan;
- (3) where the resolutions or petitions and consolidation plan can be found;
- (4) the time and place where public hearings on the question of consolidation will be held and shall state that any interested person may be heard on the question of consolidation and on the plan for consolidation;
- (5) a description of the territory and the names of the municipalities which will be included within the proposed consolidated municipality which descriptions may be by any means which describe the territories involved;
- (6) the time and place or places at which the election for consolidation shall be held; and
- (7) the form of the ballot to be used in the election to determine the question of consolidation which shall read substantially as follows:

<hr/>	
Shall the municipality of _____	YES
be consolidated with the	
municipality (or municipalities) of _____	NO
<hr/>	

The voters shall mark their ballots with a cross (x) opposite the words "yes" or "no."

Enacted by Chapter 48, 1977 General Session

10-2-609 Election on consolidation.

The election on consolidation shall be held as nearly as possible in the same manner as a general election.

Enacted by Chapter 48, 1977 General Session

10-2-610 Canvass of election -- Notice of results -- Filing of notice and plat -- Recording requirements.

- (1) The legislative body of each county in which a proposed consolidating municipality is located shall canvass the results of the election or elections in the same manner as for general elections and shall certify the results of the election to the county clerk or clerks.
- (2) If a majority of the ballots cast at the election on consolidation in each municipality are for consolidation, the county clerk or clerks shall immediately, on receiving notice of the results of the canvass under Subsection (1), give notice of the result by publication in the same manner and for the same time as provided in Section 10-2-608.
- (3) The mayors of the municipalities to be consolidated shall:
 - (a) within 30 days after the canvass of an election at which voters approve consolidation, file with the lieutenant governor:
 - (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
 - (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and
 - (b) upon the lieutenant governor's issuance of a certificate of consolidation under Section 67-1a-6.5:
 - (i) if the consolidated municipality is located within the boundary of a single county, submit to the recorder of that county the original:
 - (A) notice of an impending boundary action;
 - (B) certificate of consolidation; and
 - (C) approved final local entity plat; or
 - (ii) if the consolidated municipality is located within the boundaries of more than a single county, submit the original of the documents listed in Subsections (3)(b)(i)(A), (B), and (C) to the recorder of one of those counties and a certified copy of those documents to the recorder of each other county.

Amended by Chapter 350, 2009 General Session

10-2-611 When consolidation effective -- Disincorporation of original municipalities -- Effective date for assessment purposes.

- (1) Upon the lieutenant governor's issuance of a certificate of consolidation under Section 67-1a-6.5:
 - (a) the consolidation is effective; and
 - (b) the original municipalities involved in the consolidation are disincorporated.
- (2)
 - (a) The effective date of a consolidation of municipalities for purposes of assessing property within the consolidated municipality is governed by Section 59-2-305.5.
 - (b) Until the documents listed in Subsection 10-2-610(3)(b) are recorded in the office of the recorder of each county in which the property is located, a consolidated municipality may not:
 - (i) levy or collect a property tax on property within the consolidated municipality;
 - (ii) levy or collect an assessment on property within the consolidated municipality; or
 - (iii) charge or collect a fee for service provided to property within the consolidated municipality.

Amended by Chapter 350, 2009 General Session

10-2-612 New municipality -- Ownership of property -- Indebtedness of original municipalities.

Any consolidated municipality shall be deemed to be a continuation of the merged municipalities, except as herein expressly provided, and shall own all of the assets, property,

records, seals, equipment, and be responsible for the liabilities of each and all of the municipalities dissolved by the consolidation. The new municipality shall require the inhabitants of an original municipality included in the consolidation, by special tax levy, to satisfy any indebtedness incurred by the original municipalities provided inhabitants residing in other parts of the consolidated municipality did not or do not benefit by the revenue or services obtained by the expenditures causing the indebtedness. The governing body of the consolidated municipality shall be subject to the terms of the consolidation plan.

Enacted by Chapter 48, 1977 General Session

10-2-613 Governing body until next election.

Until the next regular municipal election, the elected officials of the municipalities consolidated into the consolidated municipality shall constitute the governing body of the municipality. The governing body shall elect one of their members to serve as mayor of the municipality and may appoint such other officers as deemed necessary to carry out the business of the municipality.

Enacted by Chapter 48, 1977 General Session

10-2-614 Ordinances, resolutions, and orders.

All ordinances, resolutions and orders, in force in any of the municipalities when it is consolidated, shall remain in full force and effect within the respective areas of the municipalities which existed prior to consolidation insofar as the ordinances, resolutions and orders are not repugnant to law, until repealed or amended, but may not in any case exceed three years. The governing body of the new municipality shall as soon as possible adopt new ordinances, resolutions and orders for the uniform governance of the new municipality.

Amended by Chapter 378, 2010 General Session

Part 7

Dissolution of Municipalities

10-2-701 Petition for disincorporation -- Validity -- District court order for election.

Disincorporation of a municipality shall be initiated upon petition. The petition shall bear signatures equal in number to 25% of all votes cast from the municipality at the last congressional election. No signature is valid, for purposes of this section, unless it is that of a registered voter who is a resident of the municipality proposed for disincorporation.

The petition containing the specified number of signatures shall be filed with the county clerk for validation by that officer. If the county clerk finds the petition valid, the clerk shall file the original with the district court and furnish a copy to the governing body of the municipality.

The district court, upon determining that the petition comports with Section 10-2-701.5 and that it does not offend Section 10-2-710 and is otherwise complete, shall order that the question of dissolution be placed before the voters of the municipality.

Enacted by Chapter 55, 1981 General Session

10-2-701.5 Form of petition.

A petition for municipal disincorporation shall substantially comply with, and be circulated in, the following form:

PETITION FOR MUNICIPAL DISINCORPORATION

To the Honorable District Court of _____ County, Utah:

We, the undersigned citizens and legal voters of the State of Utah, and residents of _____ City, Utah, respectfully petition the Court to submit a proposal to disincorporate _____ City, Utah, to the legal voters resident within said city for their approval or rejection at a special election ordered held by the court for that purpose; and each signator for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Utah; I am a resident of _____ City, Utah, and my residence and post office address are correctly written after my name.

Enacted by Chapter 55, 1981 General Session

10-2-702 District court to examine petition -- Set date for election.

If the court determines that the petition is complete, the court shall set a date for the election to determine the question of dissolution which date shall be at least 60 but not more than 90 days after the petition is filed with the court.

Amended by Chapter 55, 1981 General Session

10-2-703 Publication of notice of election.

(1) Immediately after setting the date for the election, the court shall order for publication notice of the:

- (a) petition; and
- (b) date the election is to be held to determine the question of dissolution.

(2) The notice described in Subsection (1) shall be published:

- (a)
 - (i) for at least once a week for a period of one month in a newspaper having general circulation in the municipality; or
 - (ii) if there is not a newspaper as described in Subsection (2)(a), by posting in at least three public places in the municipality; and
- (b) in accordance with Section 45-1-101 for one month.

Amended by Chapter 388, 2009 General Session

10-2-704 Form of ballot.

The form of the ballot used to vote on the issue of dissolution shall be separate from any other ballot and shall read substantially as follows:

Shall the municipality of _____

Yes

(insert name)

be dissolved?

No

The voters shall mark their ballots with a cross (x) opposite the word "yes" or "no".

Enacted by Chapter 48, 1977 General Session

10-2-705 Judgment -- Determination of claims.

The vote shall be taken and canvassed in the same manner as in other municipal elections, and return thereof made to the district court. If the district court finds that a majority of the votes cast favored dissolution, a judgment shall be entered approving the dissolution of the municipality and, upon dissolution, the corporate powers of such municipality shall cease, and the court shall cause notice to be given in a manner to be prescribed by it, requiring all claims against the municipality to be filed in the court within a time fixed in the notice, not exceeding six months, and all claims not so filed shall be forever barred. At the expiration of the time so fixed the court shall adjudicate claims so filed, which shall be treated as denied, and any citizen of the municipality at the time the vote was taken may appear and defend against any claim so filed, or the court may in its discretion appoint some person for that purpose.

Amended by Chapter 350, 2009 General Session

10-2-706 Taxes to meet municipal obligations.

The court shall have power to wind down the affairs of the municipality, to dispose of its property as provided by law, and to make provisions for the payment of all indebtedness thereof and for the performance of its contracts and obligations, and shall order such taxes levied from time to time as may be requisite therefore, which the county legislative body shall levy against the property within the municipality. The taxes shall be collected by the county treasurer in the manner for collecting other property taxes and shall be paid out under the orders of the court, and the surplus, if any, shall be paid into the school fund for the district in which the taxes were levied. All municipal property remaining after the winding down of the affairs of the municipality, shall be transferred to the board of education of such school district, which board hereby is empowered to enforce all claims for the same and to have the use of all property so vesting.

Amended by Chapter 227, 1993 General Session

10-2-707 Disposition of records.

The books, documents, records, papers, and seal of any dissolved municipality shall be deposited with the county clerk for safekeeping and reference. All court records of justice court judges shall be deposited with a justice court judge of the county to be designated by the court, and other records with the district court. The courts respectively have authority to execute and complete all unfinished business standing on the same.

Amended by Chapter 59, 1990 General Session

10-2-708 Notice of disincorporation -- Publication and filing.

When a municipality has been dissolved, the clerk of the court shall cause a notice thereof to be published:

- (1) in a newspaper having a general circulation in the county in which the municipality is located at least once a week for four consecutive weeks; and
- (2) in accordance with Section 45-1-101 for four weeks.

Amended by Chapter 388, 2009 General Session

10-2-709 Expenses of election.

The expenses of the election, of winding down the affairs and of dissolving the municipality, shall be the obligation of the municipality and shall be paid by it.

Enacted by Chapter 48, 1977 General Session

10-2-710 Limitation on jurisdiction of court to consider disincorporation petition.

No district court has jurisdiction to consider a petition seeking disincorporation of a municipality or to order an election based upon the submission of such a petition if:

- (1) the disincorporation petition is filed with the court less than two years after the official date of incorporation of the municipality which the petition seeks to dissolve; or
- (2) the disincorporation petition is filed with the court less than two years after the date of an election held to decide the question of dissolution of the municipality which the petition seeks to dissolve.

Enacted by Chapter 55, 1981 General Session

10-2-711 Dissolution by the county legislative body.

- (1)
 - (a) A municipality having fewer than 50 residents may be dissolved on application to the district court by the county legislative body of the county where the municipality is located.
 - (b)
 - (i) The population figure under Subsection (1)(a) shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.
 - (ii) If the population figure is not available from the United States Bureau of the Census, the population figure shall be derived from the estimate from the Utah Population Estimates Committee.
- (2) Notice of the application shall be served on the municipality in the manner prescribed by law or by publication in the manner provided by law if the municipal authorities cannot be served.
- (3) The district court may enter an order approving the dissolution of the municipality on a finding that the existence of the municipality serves no valid municipal purpose, its existence is a sham, or on a clear and convincing showing that the best interests of the community would be served by the dissolution.
- (4) If the municipality is dissolved, the district court shall wind down the affairs and dissolve the municipality as quickly as possible in the same manner as is provided in Sections 10-2-705 through 10-2-709.

Amended by Chapter 350, 2009 General Session

10-2-712 Power of court -- Articles of dissolution -- Notice to lieutenant governor -- Recording requirements -- Effective date of dissolution.

- (1) The district court may:

- (a) enforce compliance with any order issued to give effect to this part by proceedings for contempt; and
 - (b) appoint any person to assist it in carrying out the provisions of this part.
- (2)
- (a) Upon entering an order approving the dissolution of a municipality, the district court shall file with the lieutenant governor:
 - (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
 - (ii) a certified copy of the court order approving the dissolution.
 - (b) Upon the lieutenant governor's issuance of a certificate of dissolution under Section 67-1a-6.5:
 - (i) the municipality is dissolved; and
 - (ii) the court shall:
 - (A) if the dissolved municipality was located within the boundary of a single county, submit to the recorder of that county:
 - (I) a certified copy of the court order approving dissolution of the municipality; and
 - (II) the original certificate of dissolution; or
 - (B) if the dissolved municipality was located within the boundaries of more than a single county:
 - (I) submit to the recorder of one of those counties:
 - (Aa) a certified copy of the court order approving dissolution of the municipality; and
 - (Bb) the original certificate of dissolution; and
 - (II) submit to the recorder of each other county:
 - (Aa) a certified copy of the court order approving dissolution of the municipality; and
 - (Bb) a certified copy of the certificate of dissolution.
- (3)
- (a) The effective date of a dissolution of a municipality for purposes of assessing property within the dissolved municipality is governed by Section 59-2-305.5.
 - (b) Until the documents listed in Subsection (2)(b)(ii) are recorded in the office of the recorder of each county in which the property is located, a county in which a dissolved municipality is located may not:
 - (i) levy or collect a property tax on property within the former boundary of the dissolved municipality unless the county was levying and collecting the tax immediately before dissolution;
 - (ii) levy or collect an assessment on property within the former boundary of the dissolved municipality unless the county was levying and collecting the assessment immediately before dissolution; or
 - (iii) charge or collect a fee for service provided to property within the former boundary of the dissolved municipality unless the county was levying and collecting the fee immediately before dissolution.

Amended by Chapter 350, 2009 General Session

Chapter 2a

Municipal Incorporation

Part 1

General Provisions

10-2a-101 Title.

- (1) This chapter is known as "Municipal Incorporation."
- (2) This part is known as "General Provisions."

Enacted by Chapter 352, 2015 General Session

10-2a-102 Definitions.

- (1) As used in this part:
 - (a) "Feasibility consultant" means a person or firm:
 - (i) with expertise in the processes and economics of local government; and
 - (ii) who is independent of and not affiliated with a county or sponsor of a petition to incorporate.
 - (b) "Private," with respect to real property, means taxable property.
- (2) For purposes of this part:
 - (a) the owner of real property shall be the record title owner according to the records of the county recorder on the date of the filing of the request or petition; and
 - (b) the value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the request or petition.
- (3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or fraction of the total private land area within an area to sign a request or petition:
 - (a) a parcel of real property may not be included in the calculation of the required percentage or fraction unless the request or petition is signed by:
 - (i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or
 - (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;
 - (b) the signature of a person signing a request or petition in a representative capacity on behalf of an owner is invalid unless:
 - (i) the person's representative capacity and the name of the owner the person represents are indicated on the request or petition with the person's signature; and
 - (ii) the person provides documentation accompanying the request or petition that substantiates the person's representative capacity; and
 - (c) subject to Subsection (3)(b), a duly appointed personal representative may sign a request or petition on behalf of a deceased owner.

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-103 Incorporation of a contiguous area.

A contiguous area of a county not within a municipality may incorporate as a municipality as provided in this chapter.

Amended by Chapter 111, 2015 General Session

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-104 Elections governed by the Election Code.

Except as otherwise provided in this chapter, each election under this chapter shall be governed by the provisions of Title 20A, Election Code.

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-105 Suspension of township incorporation and annexation procedures on or after January 1, 2014 -- Exceptions.

(1) As used in this section:

- (a) "Township incorporation procedure" means the following actions, the subject of which includes an area located in whole or in part in a township:
 - (i) a request for incorporation described in Section 10-2a-202;
 - (ii) a feasibility study described in Section 10-2a-205;
 - (iii) a modified request and a supplemental feasibility study described in Section 10-2a-206; or
 - (iv) an incorporation petition described in Section 10-2a-208 that is not certified under Section 10-2a-209.
- (b) "Township annexation procedure" means one or more of the following actions, the subject of which includes an area located in whole or in part in a township:
 - (i) a petition to annex described in Section 10-2-403;
 - (ii) a feasibility study described in Section 10-2-413;
 - (iii) a modified annexation petition or supplemental feasibility study described in Section 10-2-414;
 - (iv) a boundary commission decision described in Section 10-2-416; or
 - (v) any action described in Section 10-2-418 before the adoption of an ordinance to approve annexation under Subsection 10-2-418(5)(b).

(2)

- (a) Except as provided in Subsections (3) and (4):
 - (i) if a request for incorporation described in Section 10-2a-202 is filed with the clerk of the county on or after January 1, 2014, a township incorporation procedure that is the subject of or otherwise relates to that request is suspended until November 15, 2015; and
 - (ii) if a petition to annex described in Section 10-2-403 is filed with the city recorder or town clerk on or after January 1, 2014, a township annexation procedure that is the subject of or otherwise relates to that petition is suspended until November 15, 2015.
- (b)
 - (i) If a township incorporation procedure or township annexation procedure is suspended under Subsection (2)(a), any applicable deadline or timeline is suspended before and on November 15, 2015.
 - (ii) On November 16, 2015, the applicable deadline or timeline described in Subsection (2)(b)(i):
 - (A) may proceed and the period of time during the suspension does not toll against that deadline or timeline; and
 - (B) does not start over.

(3) Subsection (2) does not apply to a township annexation procedure that:

- (a) includes any land area located in whole or in part in a township that is:
 - (i) 50 acres or more; and
 - (ii) primarily owned or controlled by a government entity; or

- (b) is the subject of or otherwise relates to a petition to annex that is filed in accordance with Subsection 10-2-403(3) before January 1, 2014.
- (4)
 - (a) For an incorporation petition suspended in accordance with Subsection (2), the petition sponsors may continue to gather petition signatures and file them with the county clerk as provided in Section 10-2a-202.
 - (b) The county clerk shall process the petition in accordance with Section 10-2a-204 and may issue a certification or rejection of the petition as provided in Section 10-2a-204.
 - (c) Notwithstanding any other provision of this chapter, any further processing, including a feasibility study, public hearing, or an incorporation election, is suspended until November 15, 2015.

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-106 Feasibility study or petition to incorporate filed before May 12, 2015.

- (1) If a request for a feasibility study to incorporate a city is filed under Section 10-2a-202 before May 12, 2015, the request and a subsequent feasibility study, petition, public hearing, election, and any other city incorporation action applicable to that request shall be filed with and be acted upon, held, processed, or paid for by the county legislative body or county clerk, as applicable, as designated, directed, or authorized before Laws of Utah 2015, Chapter 157, takes effect.
- (2) If a petition to incorporate a town is filed under Section 10-2a-302 before May 12, 2015, the petition and a subsequent feasibility study, petition, public hearing, election, and any other town incorporation action applicable to that petition to incorporate, including a township incorporation procedure as defined in Section 10-2a-105, shall be filed with and be acted upon, held, processed, or paid for by the county legislative body or county clerk, as applicable, as designated, directed, or authorized before Laws of Utah 2015, Chapter 157, takes effect.

Enacted by Chapter 157, 2015 General Session

Revisor instructions Chapter 157, 2015 General Session

Amended by Chapter 352, 2015 General Session, (Coordination Clause)

Part 2

Incorporation of a City

10-2a-201 Title.

This part is known as "Incorporation of a City."

Enacted by Chapter 352, 2015 General Session

10-2a-202 Request for feasibility study -- Requirements -- Limitations.

- (1) The process to incorporate a contiguous area of a county as a city is initiated by a request for a feasibility study filed with the Office of the Lieutenant Governor.
- (2) Each request under Subsection (1) shall:
 - (a) be signed by the owners of private real property that:
 - (i) is located within the area proposed to be incorporated;
 - (ii) covers at least 10% of the total private land area within the area; and

- (iii) is equal in value to at least 7% of the value of all private real property within the area;
 - (b) indicate the typed or printed name and current residence address of each owner signing the request;
 - (c) describe the contiguous area proposed to be incorporated as a city;
 - (d) designate up to five signers of the request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;
 - (e) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing the boundaries of the proposed city; and
 - (f) request the lieutenant governor to commission a study to determine the feasibility of incorporating the area as a city.
- (3) A request for a feasibility study under this section may not propose for incorporation an area that includes some or all of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection 10-2a-208(3) unless:
- (a) the proposed incorporation that is the subject of the completed feasibility study or supplemental feasibility study has been defeated by the voters at an election under Section 10-2a-210; or
 - (b) the time provided under Subsection 10-2a-208(1) for filing an incorporation petition based on the completed feasibility study or supplemental feasibility study has elapsed without the filing of a petition.
- (4)
- (a) Except as provided in Subsection (4)(b), a request under this section may not propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:
 - (i) was filed before the filing of the request; and
 - (ii) is still pending on the date the request is filed.
 - (b) Notwithstanding Subsection (4)(a), a request may propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition described in Subsection (4)(a) if:
 - (i) the proposed annexation area that is part of the area proposed for incorporation does not exceed 20% of the area proposed for incorporation;
 - (ii) the request complies with Subsections (2) and (3) with respect to the area proposed for incorporation excluding the proposed annexation area; and
 - (iii) excluding the area proposed for annexation from the area proposed for incorporation would not cause the area proposed for incorporation to lose its contiguousness.
 - (c) Except as provided in Section 10-2a-206, each request to which Subsection (4)(b) applies shall be considered as not proposing the incorporation of the area proposed for annexation.

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-203 Notice to owner of property -- Exclusion of property from proposed boundaries.

- (1) As used in this section:
- (a) "Assessed value" with respect to property means the value at which the property would be assessed without regard to a valuation for agricultural use under Section 59-2-503.
 - (b) "Owner" means a person having an interest in real property, including an affiliate, subsidiary, or parent company.
 - (c) "Urban" means an area with a residential density of greater than one unit per acre.

- (2) Within seven calendar days of the date on which a request under Section 10-2a-202 is filed, the lieutenant governor shall send written notice of the proposed incorporation to each record owner of real property owning more than:
 - (a) 1% of the assessed value of all property in the proposed incorporation boundaries; or
 - (b) 10% of the total private land area within the proposed incorporation boundaries.
- (3) If an owner owns, controls, or manages more than 1% of the assessed value of all property in the proposed incorporation boundaries, or owns, controls, or manages 10% or more of the total private land area in the proposed incorporation boundaries, the owner may exclude all or part of the property owned, controlled, or managed by the owner from the proposed boundaries by filing a Notice of Exclusion with the Office of the Lieutenant Governor within 15 calendar days of receiving the clerk's notice under Subsection (2).
- (4) The lieutenant governor shall exclude the property identified by an owner in the Notice of Exclusion from the proposed incorporation boundaries unless the lieutenant governor finds by clear and convincing evidence in the record that:
 - (a) the exclusion will leave an unincorporated island within the proposed municipality; and
 - (b) the property to be excluded:
 - (i) is urban; and
 - (ii) currently receives from the county a majority of municipal-type services including:
 - (A) culinary or irrigation water;
 - (B) sewage collection or treatment;
 - (C) storm drainage or flood control;
 - (D) recreational facilities or parks;
 - (E) electric generation or transportation;
 - (F) construction or maintenance of local streets and roads;
 - (G) curb and gutter or sidewalk maintenance;
 - (H) garbage and refuse collection; and
 - (I) street lighting.
- (5) This section applies only to counties of the first or second class.
- (6) If the lieutenant governor excludes property from the proposed boundaries under Subsection (4), the lieutenant governor shall, within five days of the exclusion, send written notice of the exclusion to the contact sponsor.

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-204 Processing a request for incorporation -- Certification or rejection by lieutenant governor -- Processing priority -- Limitations -- Planning advisory area planning commission recommendation.

- (1) Within 45 days of the filing of a request under Section 10-2a-202, the lieutenant governor shall:
 - (a) with the assistance of other county officers of the county in which the incorporation is proposed from whom the lieutenant governor requests assistance, determine whether the request complies with Section 10-2a-202; and
 - (b)
 - (i) if the lieutenant governor determines that the request complies with Section 10-2a-202:
 - (A) certify the request; and
 - (B) mail or deliver written notification of the certification to the contact sponsor; or

- (ii) if the lieutenant governor determines that the request fails to comply with Section 10-2a-202 requirements, reject the request and notify the contact sponsor in writing of the rejection and the reasons for the rejection.
- (2) The lieutenant governor shall certify or reject requests under Subsection (1) in the order in which they are filed.
- (3)
 - (a)
 - (i) If the lieutenant governor rejects a request under Subsection (1)(b)(ii), the request may be amended to correct the deficiencies for which it was rejected and then refiled with the lieutenant governor.
 - (ii) A signature on a request under Section 10-2a-202 may be used toward fulfilling the signature requirement of Subsection 10-2a-202(2)(a) for the request as modified under Subsection (3)(a)(i).
 - (b) If a request is amended and refiled under Subsection (3)(a) after having been rejected by the lieutenant governor under Subsection (1)(b)(ii), it shall be considered as a newly filed request, and its processing priority is determined by the date on which it is refiled.

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-205 Feasibility study -- Feasibility study consultant.

- (1) Within 90 days of receipt of a certified request under Subsection 10-2a-204(1)(b)(i), the lieutenant governor shall engage the feasibility consultant chosen under Subsection (2) to conduct a feasibility study.
- (2) The feasibility consultant shall be chosen:
 - (a)
 - (i) by the contact sponsor of the incorporation petition with the consent of the lieutenant governor; or
 - (ii) by the lieutenant governor if the designated sponsors state, in writing, that the contact sponsor defers selection of the feasibility consultant to the lieutenant governor; and
 - (b) in accordance with applicable procurement procedures.
- (3) The lieutenant governor shall require the feasibility consultant to:
 - (a) complete the feasibility study and submit the written results to the lieutenant governor, the county legislative body of the county in which the incorporation is proposed, and the contact sponsor no later than 90 days after the feasibility consultant is engaged to conduct the study;
 - (b) submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and
 - (c) attend the public hearings under Subsection 10-2a-207(1) and present the feasibility study results and respond to questions from the public at those hearings.
- (4)
 - (a) The feasibility study shall consider:
 - (i) population and population density within the area proposed for incorporation and the surrounding area;
 - (ii) current and five-year projections of demographics and economic base in the proposed city and surrounding area, including household size and income, commercial and industrial development, and public facilities;
 - (iii) projected growth in the proposed city and in adjacent areas during the next five years;

- (iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of governmental services in the proposed city, including:
 - (A) culinary water;
 - (B) secondary water;
 - (C) sewer;
 - (D) law enforcement;
 - (E) fire protection;
 - (F) roads and public works;
 - (G) garbage;
 - (H) weeds; and
 - (I) government offices;
 - (v) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed city;
 - (vi) a projection of any new taxes per household that may be levied within the incorporated area within five years of incorporation; and
 - (vii) the fiscal impact on unincorporated areas, other municipalities, local districts, special service districts, and other governmental entities in the county.
- (b)
- (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of governmental services to be provided to the proposed city in the future that fairly and reasonably approximate the level and quality of governmental services being provided to the proposed city at the time of the feasibility study.
 - (ii) In determining the present cost of a governmental service, the feasibility consultant shall consider:
 - (A) the amount it would cost the proposed city to provide governmental service for the first five years after incorporation; and
 - (B) the county's present and five-year projected cost of providing governmental service.
 - (iii) The costs calculated under Subsection (4)(a)(iv), shall take into account inflation and anticipated growth.
- (5) If the five year projected revenues under Subsection (4)(a)(v) exceed the five year projected costs under Subsection (4)(a)(iv) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.
- (6) If the results of the feasibility study or revised feasibility study do not meet the requirements of Subsection 10-2a-208(3), the feasibility consultant shall, as part of the feasibility study or revised feasibility study and if requested by the sponsors of the request, make recommendations as to how the boundaries of the proposed city may be altered so that the requirements of Subsection 10-2a-208(3) may be met.

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-206 Modified request for feasibility study -- Supplemental feasibility study.

- (1)
 - (a)
 - (i) The sponsors of a request may modify the request to alter the boundaries of the proposed city and then refile the request, as modified, with the lieutenant governor if:

- (A) the results of the feasibility study do not meet the requirements of Subsection 10-2a-208(3); or
- (B)
 - (I) the request meets the conditions of Subsection 10-2a-202(4)(b);
 - (II) the annexation petition that proposed the annexation of an area that is part of the area proposed for incorporation has been denied; and
 - (III) an incorporation petition based on the request has not been filed.
- (ii)
 - (A) A modified request under Subsection (1)(a)(i)(A) may not be filed more than 90 days after the feasibility consultant's submission of the results of the study.
 - (B) A modified request under Subsection (1)(a)(i)(B) may not be filed more than 18 months after the filing of the original request under Section 10-2a-202.
- (b)
 - (i) Subject to Subsection (1)(b)(ii), each modified request under Subsection (1)(a) shall comply with the requirements of Subsections 10-2a-202(2), (3), and (4).
 - (ii) Notwithstanding Subsection (1)(b)(i), a signature on a request filed under Section 10-2a-202 may be used toward fulfilling the signature requirement of Subsection 10-2a-202(2)(a) for the request as modified under Subsection (1)(a), unless the modified request proposes the incorporation of an area that is more than 20% greater or smaller than the area described by the original request in terms of:
 - (A) private land area; or
 - (B) value of private real property.
- (2) Within 20 days after the lieutenant governor's receipt of the modified request, the lieutenant governor shall follow the same procedure for the modified request as provided under Subsection 10-2a-204(1) for an original request.
- (3) The timely filing of a modified request under Subsection (1) gives the modified request the same processing priority under Subsection 10-2a-204(2) as the original request.
- (4) Within 10 days after the lieutenant governor's receipt of a certified modified request under Subsection (1)(a)(i)(A) or a certified modified request under Subsection (1)(a)(i)(B) that was filed after the completion of a feasibility study on the original request, the lieutenant governor shall commission the feasibility consultant who conducted the feasibility study to supplement the feasibility study to take into account the information in the modified request that was not included in the original request.
- (5) The lieutenant governor shall require the feasibility consultant to complete the supplemental feasibility study and to submit written results of the supplemental study to the lieutenant governor and to the contact sponsor no later than 30 days after the feasibility consultant is commissioned to conduct the supplemental feasibility study.
- (6)
 - (a) Subject to Subsection (6)(b), if the results of the supplemental feasibility study do not meet the requirements of Subsection 10-2a-208(3):
 - (i) the sponsors may file a further modified request as provided in Subsection (1); and
 - (ii) Subsections (2), (4), and (5) apply to a further modified request under Subsection (6)(a)(i).
 - (b) A further modified request under Subsection (6)(a) shall, for purposes of its processing priority, be considered as an original request for a feasibility study under Section 10-2a-202.

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-207 Public hearings on feasibility study results -- Notice of hearings.

- (1) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2a-208(3), the lieutenant governor shall, after receipt of the results of the feasibility study or supplemental feasibility study, schedule at least two public hearings to be held:
 - (a) within the following 60 days after receipt of the results;
 - (b) at least seven days apart;
 - (c) in geographically diverse locations within the proposed city; and
 - (d) for the purpose of allowing:
 - (i) the feasibility consultant to present the results of the study; and
 - (ii) the public to become informed about the feasibility study results and to ask questions about those results of the feasibility consultant.
- (2) At a public hearing described in Subsection (1), the lieutenant governor shall:
 - (a) provide a map or plat of the boundary of the proposed city;
 - (b) provide a copy of the feasibility study for public review; and
 - (c) allow the public to express its views about the proposed incorporation, including its view about the proposed boundary.
- (3)
 - (a)
 - (i) The lieutenant governor shall publish notice of the public hearings required under Subsection (1):
 - (A) at least once a week for three successive weeks in a newspaper of general circulation within the proposed city; and
 - (B) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks.
 - (ii) The last publication of notice required under Subsection (3)(a)(i)(A) shall be at least three days before the first public hearing required under Subsection (1).
 - (b)
 - (i) If, under Subsection (3)(a)(i)(A), there is no newspaper of general circulation within the proposed city, the lieutenant governor shall post at least one notice of the hearings per 1,000 population in conspicuous places within the proposed city that are most likely to give notice of the hearings to the residents of the proposed city.
 - (ii) The lieutenant governor shall post the notices under Subsection (3)(b)(i) at least seven days before the first hearing under Subsection (1).
 - (c) The notice under Subsections (3)(a) and (b) shall include the feasibility study summary under Subsection 10-2a-205(3)(b) and shall indicate that a full copy of the study is available for inspection and copying at the Office of the Lieutenant Governor.
 - (d) The lieutenant governor shall post a copy of the feasibility study on the lieutenant governor's website and make a copy available for public review at the Office of the Lieutenant Governor.

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-208 Incorporation petition -- Requirements and form.

- (1) At any time within one year of the completion of the public hearings required under Subsection 10-2a-207(1), a petition for incorporation of the area proposed to be incorporated as a city may be filed in the Office of the Lieutenant Governor.
- (2) Each petition under Subsection (1) shall:
 - (a) be signed by:

- (i) 10% of all registered voters within the area proposed to be incorporated as a city, according to the official voter registration list maintained by the county on the date the petition is filed; and
- (ii) 10% of all registered voters within, subject to Subsection (5), 90% of the voting precincts within the area proposed to be incorporated as a city, according to the official voter registration list maintained by the county on the date the petition is filed;
- (b) indicate the typed or printed name and current residence address of each owner signing the petition;
- (c) describe the area proposed to be incorporated as a city, as described in the feasibility study request or modified request that meets the requirements of Subsection (3);
- (d) state the proposed name for the proposed city;
- (e) designate five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;
- (f) state that the signers of the petition appoint the sponsors, if the incorporation measure passes, to represent the signers in the process of:
 - (i) selecting the number of commission or council members the new city will have; and
 - (ii) drawing district boundaries for the election of commission or council members, if the voters decide to elect commission or council members by district;
- (g) be accompanied by and circulated with an accurate plat or map, prepared by a licensed surveyor, showing the boundaries of the proposed city; and
- (h) substantially comply with and be circulated in the following form:

PETITION FOR INCORPORATION OF (insert the proposed name of the proposed city)

To the Honorable Lieutenant Governor:

We, the undersigned owners of real property within the area described in this petition, respectfully petition the lieutenant governor to direct the county legislative body to submit to the registered voters residing within the area described in this petition, at the next regular general election, the question of whether the area should incorporate as a city. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a city is described as follows: (insert an accurate description of the area proposed to be incorporated).
- (3) A petition for incorporation of a city under Subsection (1) may not be filed unless the results of the feasibility study or supplemental feasibility study show that the average annual amount of revenue under Subsection 10-2a-205(4)(a)(v) does not exceed the average annual amount of cost under Subsection 10-2a-205(4)(a)(iv) by more than 5%.
- (4) A signature on a request under Section 10-2a-202 or a modified request under Section 10-2a-206 may be used toward fulfilling the signature requirement of Subsection (2)(a):
 - (a) if the request under Section 10-2a-202 or modified request under Section 10-2a-206 notified the signer in conspicuous language that the signature, unless withdrawn, would also be used for purposes of a petition for incorporation under this section; and
 - (b) unless the signer files with the lieutenant governor a written withdrawal of the signature before the petition under this section is filed with the lieutenant governor.
- (5)
 - (a) A signature does not qualify as a signature to meet the requirement described in Subsection (2)(a)(ii) if the signature is gathered from a voting precinct that:
 - (i) is not located entirely within the boundaries of the proposed city; or
 - (ii) includes less than 50 registered voters.

- (b) A voting precinct that is not located entirely within the boundaries of the proposed city does not qualify as a voting precinct to meet the precinct requirements of Subsection (2)(a)(ii).

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-209 Processing of petition by lieutenant governor -- Certification or rejection -- Processing priority.

- (1) Within 45 days of the filing of a petition under Section 10-2a-208, the lieutenant governor shall:
 - (a) with the assistance of other county officers of the county in which the incorporation is proposed from whom the lieutenant governor requests assistance, determine whether the petition meets the requirements of Section 10-2a-208; and
 - (b)
 - (i) if the lieutenant governor determines that the petition meets those requirements, certify the petition and notify in writing the contact sponsor of the certification; or
 - (ii) if the lieutenant governor determines that the petition fails to meet any of those requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.
- (2)
 - (a) If the lieutenant governor rejects a petition under Subsection (1)(b)(ii), the petition may be modified to correct the deficiencies for which it was rejected and then refiled with the lieutenant governor.
 - (b) A modified petition under Subsection (2)(a) may be filed at any time until 30 days after the lieutenant governor notifies the contact sponsor under Subsection (1)(b)(ii), even though the modified petition is filed after the expiration of the deadline provided in Subsection 10-2a-208(1).
 - (c) A signature on an incorporation petition under Section 10-2a-208 may be used toward fulfilling the signature requirement of Subsection 10-2a-208(2)(a) for the petition as modified under Subsection (2)(a).
- (3)
 - (a) Within 20 days of the lieutenant governor's receipt of a modified petition under Subsection (2)(a), the lieutenant governor shall follow the same procedure for the modified petition as provided under Subsection (1) for an original petition.
 - (b) If the lieutenant governor rejects a modified petition under Subsection (1)(b)(ii), no further modification of that petition may be filed.

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-210 Incorporation election.

- (1)
 - (a) Upon receipt of a certified petition under Subsection 10-2a-209(1)(b)(i) or a certified modified petition under Subsection 10-2a-209(3), the lieutenant governor shall:
 - (i) determine and set an election date for the incorporation election that is:
 - (A) on a regular general election date under Section 20A-1-201 or on a local special election date under Section 20A-1-203; and
 - (B) at least 65 days after the day that the lieutenant governor receives the certified petition; and

- (ii) direct the county legislative body of the county in which the incorporation is proposed to hold the election on the date determined by the lieutenant governor in accordance with Subsection (1)(a)(i).
 - (b) The county shall hold the election as directed by the lieutenant governor in accordance with Subsection (1)(a)(ii).
 - (c) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed city, the person may not vote on the proposed incorporation.
- (2)
- (a) The county clerk shall publish notice of the election:
 - (i) in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks; and
 - (ii) in accordance with Section 45-1-101 for three weeks.
 - (b) The notice required by Subsection (2)(a) shall contain:
 - (i) a statement of the contents of the petition;
 - (ii) a description of the area proposed to be incorporated as a city;
 - (iii) a statement of the date and time of the election and the location of polling places; and
 - (iv) the feasibility study summary under Subsection 10-2a-205(3)(b) and a statement that a full copy of the study is available for inspection and copying at the Office of the Lieutenant Governor.
 - (c) The last publication of notice required under Subsection (2)(a) shall occur at least one day but no more than seven days before the election.
- (d)
- (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed city, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the proposed city that are most likely to give notice of the election to the voters of the proposed city.
 - (ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1).
- (3) If a majority of those casting votes within the area boundaries of the proposed city vote to incorporate as a city, the area shall incorporate.

Amended by Chapter 111, 2015 General Session

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-211 Ballot used at the incorporation election.

- (1) The ballot at the incorporation election under Subsection 10-2a-210(1) shall pose the incorporation question substantially as follows:
- "Shall the area described as (insert a description of the proposed city) be incorporated as the city of (insert the proposed name of the proposed city)?"
- (2) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (1).
- (3)
- (a) The ballot at the incorporation election shall also pose the question relating to the form of government substantially as follows:

"If the above incorporation proposal passes, under what form of municipal government shall (insert the name of the proposed city) operate? Vote for one:
Five-member council form

Six-member council form
Five-member council-mayor form
Seven-member council-mayor form."

- (b) The ballot shall provide a space for the voter to vote for one form of government.
- (4)
 - (a) The ballot at the incorporation election shall also pose the question of whether to elect city council members by district substantially as follows:
If the above incorporation proposal passes, shall members of the city council of (insert the name of the proposed city) be elected by district?
 - (b) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (4)(a).

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-212 Notification to lieutenant governor of incorporation election results.

Within 10 days of the canvass of the incorporation election, the county clerk shall send written notice to the lieutenant governor of:

- (1) the results of the election; and
- (2) if the incorporation measure passes:
 - (a) the name of the city; and
 - (b) the class of the city as provided under Section 10-2-301.

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-213 Determination of number of council members -- Determination of election districts -- Hearings and notice.

- (1) If the incorporation proposal passes, the petition sponsors shall, within 25 days of the canvass of the election under Section 10-2a-210:
 - (a) if the voters at the incorporation election choose the council-mayor form of government, determine the number of council members that will constitute the council of the future city;
 - (b) if the voters at the incorporation election vote to elect council members by district, determine the number of council members to be elected by district and draw the boundaries of those districts, which shall be substantially equal in population;
 - (c) determine the initial terms of the mayor and members of the city council so that:
 - (i) the mayor and approximately half the members of the city council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and
 - (ii) the remaining members of the city council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and
 - (d) submit in writing to the county legislative body the results of the sponsors' determinations under Subsections (1)(a), (b), and (c).
- (2)
 - (a) Before making a determination under Subsection (1)(a), (b), or (c), the petition sponsors shall hold a public hearing within the future city on the applicable issues under Subsections (1)(a), (b), and (c).
 - (b)
 - (i) The petition sponsors shall publish notice of the public hearing under Subsection (2)(a):

- (A) in a newspaper of general circulation within the future city at least once a week for two successive weeks before the hearing; and
- (B) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the hearing.
- (ii) The last publication of notice under Subsection (2)(b)(i)(A) shall be at least three days before the public hearing under Subsection (2)(a).
- (c)
 - (i) In accordance with Subsection (2)(b)(i)(A), if there is no newspaper of general circulation within the future city, the petition sponsors shall post at least one notice of the hearing per 1,000 population in conspicuous places within the future city that are most likely to give notice of the hearing to the residents of the future city.
 - (ii) The petition sponsors shall post the notices under Subsection (2)(c)(i) at least seven days before the hearing under Subsection (2)(a).

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-214 Notice of number of commission or council members to be elected and of district boundaries -- Declaration of candidacy for city office.

- (1)
 - (a) Within 20 days of the county legislative body's receipt of the information under Subsection 10-2a-213(1)(d), the county clerk shall publish, in accordance with Subsection (1)(b), notice containing:
 - (i) the number of commission or council members to be elected for the new city;
 - (ii) if some or all of the commission or council members are to be elected by district, a description of the boundaries of those districts as designated by the petition sponsors under Subsection 10-2a-213(1)(b);
 - (iii) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for mayor or city commission or council; and
 - (iv) information about the length of the initial term of each of the city officers, as determined by the petition sponsors under Subsection 10-2a-213(1)(c).
 - (b) The notice under Subsection (1)(a) shall be published:
 - (i) in a newspaper of general circulation within the future city at least once a week for two successive weeks; and
 - (ii) in accordance with Section 45-1-101 for two weeks.
 - (c)
 - (i) In accordance with Subsection (1)(b)(i), if there is no newspaper of general circulation within the future city, the county clerk shall post at least one notice per 1,000 population in conspicuous places within the future city that are most likely to give notice to the residents of the future city.
 - (ii) The notice under Subsection (1)(c)(i) shall contain the information required under Subsection (1)(a).
 - (iii) The petition sponsors shall post the notices under Subsection (1)(c)(i) at least seven days before the deadline for filing a declaration of candidacy under Subsection (2).
- (2) Notwithstanding Subsection 20A-9-203(2)(a), each person seeking to become a candidate for mayor or city commission or council of a city incorporating under this part shall file a declaration of candidacy with the clerk of the county in which the future city is located and in accordance with the deadlines set by the clerk as authorized by Section 10-2a-215.

Amended by Chapter 111, 2015 General Session
Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-215 Election of officers of new city -- Primary and final election dates -- County clerk duties -- Candidate duties -- Occupation of office.

- (1) For the election of city officers, the county legislative body shall:
- (a) unless a primary election is prohibited by Subsection 20A-9-404(2), hold a primary election; and
 - (b) unless the election may be cancelled in accordance with Section 20A-1-206, hold a final election.
- (2) Each election under Subsection (1) shall be:
- (a) appropriate to the form of government chosen by the voters at the incorporation election;
 - (b) consistent with the voters' decision about whether to elect commission or council members by district and, if applicable, consistent with the boundaries of those districts as determined by the petition sponsors; and
 - (c) consistent with the sponsors' determination of the number of commission or council members to be elected and the length of their initial term.
- (3)
- (a) Subject to Subsection (3)(b), the primary election under Subsection (1)(a) shall be held at the earliest of the next:
 - (i) notwithstanding Subsection 20A-1-201.5(2), regular general election under Section 20A-1-201;
 - (ii) notwithstanding Subsection 20A-1-201.5(2), regular primary election under Subsection 20A-1-201.5(1);
 - (iii) municipal primary election under Section 20A-9-404; or
 - (iv) notwithstanding Subsection 20A-1-201.5(2), municipal general election under Section 20A-1-202.
 - (b) The county shall hold the primary election, if necessary, on the next earliest election date listed in Subsection (3)(a)(i), (ii), (iii), or (iv) that is at least:
 - (i) 75 days after the incorporation election under Section 10-2a-210; and
 - (ii) 65 days after the last day of the candidate filing period.
- (4)
- (a) Subject to Subsection (4)(b), the county shall hold the final election under Subsection (1)(b) on one of the following election dates:
 - (i) regular general election under Section 20A-1-201;
 - (ii) municipal primary election under Section 20A-9-404;
 - (iii) regular municipal general election under Section 20A-1-202; or
 - (iv) regular primary election under Section 20A-1-201.5.
 - (b) The county shall hold the final election on the earliest of the next election date that is listed in Subsection (4)(a)(i), (ii), (iii), or (iv):
 - (i) that is after a primary election; or
 - (ii) if there is no primary election, that is at least:
 - (A) 75 days after the incorporation election under Section 10-2a-210; and
 - (B) 65 days after the candidate filing period.
- (5)
- (a)
 - (i) The county clerk shall publish notice of an election under this section:

- (A) at least once a week for two successive weeks in a newspaper of general circulation within the future city; and
- (B) in accordance with Section 45-1-101 for two weeks.
- (ii) The later notice under Subsection (5)(a)(i) shall be at least one day but no more than seven days before the election.
- (b)
 - (i) In accordance with Subsection (5)(a)(i)(A), if there is no newspaper of general circulation within the future city, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the future city that are most likely to give notice of the election to the voters.
 - (ii) The county clerk shall post the notices under Subsection (5)(b)(i) at least seven days before each election under Subsection (1).
- (6)
 - (a) Until the city is incorporated, the county clerk:
 - (i) is the election officer for all purposes in an election of officers of the city approved at an incorporation election; and
 - (ii) may, as necessary, determine appropriate deadlines, procedures, and instructions that are not otherwise contrary to law.
 - (b) The county clerk shall require and determine deadlines for the filing of campaign financial disclosures of city officer candidates in accordance with Section 10-3-208.
 - (c) The county clerk is responsible to ensure that:
 - (i) a primary or final election for the officials of a newly incorporated city is held on a date authorized by this section; and
 - (ii) the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated city and the term of each office.
- (7) A person who has filed as a candidate for an office described in this section shall comply with the campaign finance disclosure requirements of Section 10-3-208 and requirements and deadlines as lawfully set forth by the county clerk.
- (8) Notwithstanding Section 10-3-201, the officers elected at a final election described in Subsection (4)(a) shall take office:
 - (a) after taking the oath of office; and
 - (b) at noon on the first Monday following the day on which the election official transmits a certificate of nomination or election under the officer's seal to each elected candidate in accordance with Subsection 20A-4-304(2)(c)(ii).

Amended by Chapter 111, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

Amended by Chapter 352, 2015 General Session, (Coordination Clause)

10-2a-216 Notification to lieutenant governor of election of city officers.

Within 10 days of the canvass of the final election of city officers under Section 10-2a-215, the county clerk shall send written notice to the lieutenant governor of the name and position of each officer elected and the term for which each has been elected.

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-217 Filing of notice and approved final local entity plat with lieutenant governor -- Effective date of incorporation -- Necessity of recording documents and effect of not recording.

- (1) The mayor of the future city shall:
 - (a) within 30 days after the canvass of the final election of city officers under Section 10-2a-215, file with the lieutenant governor:
 - (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
 - (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and
 - (b) upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5:
 - (i) if the city is located within the boundary of a single county, submit to the recorder of that county the original:
 - (A) notice of an impending boundary action;
 - (B) certificate of incorporation; and
 - (C) approved final local entity plat; or
 - (ii) if the city is located within the boundaries of more than a single county, submit the original of the documents listed in Subsections (1)(b)(i)(A), (B), and (C) to one of those counties and a certified copy of those documents to each other county.
- (2)
 - (a) The incorporation is effective upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5.
 - (b) Notwithstanding any other provision of law, a city is conclusively presumed to be lawfully incorporated and existing if, for two years following the city's incorporation:
 - (i)
 - (A) the city has levied and collected a property tax; or
 - (B) for a city incorporated on or after July 1, 1998, the city has imposed a sales and use tax; and
 - (ii) no challenge to the existence or incorporation of the city has been filed in the district court for the county in which the city is located.
- (3)
 - (a) The effective date of an incorporation for purposes of assessing property within the new city is governed by Section 59-2-305.5.
 - (b) Until the documents listed in Subsection (1)(b) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated city may not:
 - (i) levy or collect a property tax on property within the city;
 - (ii) levy or collect an assessment on property within the city; or
 - (iii) charge or collect a fee for service provided to property within the city.

Amended by Chapter 111, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-218 Powers of officers-elect.

- (1) Upon the canvass of the final election of city officers under Section 10-2a-215 and until the future city becomes legally incorporated, the officers of the future city may:
 - (a) prepare and adopt, under Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, a proposed budget and compilation of ordinances;
 - (b) negotiate and make personnel contracts and hirings;

- (c) negotiate and make service contracts;
 - (d) negotiate and make contracts to purchase equipment, materials, and supplies;
 - (e) borrow funds from the county in which the future city is located under Subsection 10-2a-219(3);
 - (f) borrow funds for startup expenses of the future city;
 - (g) issue tax anticipation notes in the name of the future city; and
 - (h) make appointments to the city's planning commission.
- (2) The city's legislative body shall review and ratify each contract made by the officers under Subsection (1) within 30 days after the effective date of incorporation under Section 10-2a-217.

Amended by Chapter 111, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-219 Division of municipal-type services revenues -- County may provide startup funds.

- (1) The county in which an area incorporating under this part is located shall, until the date of the city's incorporation under Section 10-2a-217, continue:
- (a) to levy and collect ad valorem property tax and other revenues from or pertaining to the future city; and
 - (b) except as otherwise agreed by the county and the officers of the city, to provide the same services to the future city as the county provided before the commencement of the incorporation proceedings.
- (2)
- (a) The legislative body of the county in which a newly incorporated city is located shall share pro rata with the new city, based on the date of incorporation, the taxes and service charges or fees levied and collected by the county under Section 17-34-3 during the year of the new city's incorporation if and to the extent that the new city provides, by itself or by contract, the same services for which the county levied and collected the taxes and service charges or fees.
 - (b)
 - (i) The legislative body of a county in which a city incorporated after January 1, 2004, is located may share with the new city taxes and service charges or fees that were levied and collected by the county under Section 17-34-3:
 - (A) before the year of the new city's incorporation;
 - (B) from the previously unincorporated area that, because of the city's incorporation, is located within the boundaries of the newly incorporated city; and
 - (C) for the purpose of providing services to the area that before the new city's incorporation was unincorporated.
 - (ii) A county legislative body may share taxes and service charges or fees under Subsection (2) (b)(i) by a direct appropriation of funds or by a credit or offset against amounts due under a contract for municipal-type services provided by the county to the new city.
- (3)
- (a) The legislative body of a county in which an area incorporating under this part is located may appropriate county funds to:
 - (i) before incorporation but after the canvass of the final election of city officers under Section 10-2a-215, the officers of the future city to pay startup expenses of the future city; or
 - (ii) after incorporation, the new city.

- (b) Funds appropriated under Subsection (3)(a) may be distributed in the form of a grant, a loan, or as an advance against future distributions under Subsection (2).

Amended by Chapter 111, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-220 Costs of incorporation -- Fees established by lieutenant governor.

- (1)
 - (a) The lieutenant governor shall establish a fee in accordance with Section 63J-1-504 for a cost incurred by the lieutenant governor for an incorporation proceeding, including:
 - (i) a request certification;
 - (ii) a feasibility study;
 - (iii) a petition certification;
 - (iv) publication of notices;
 - (v) public hearings;
 - (vi) all other incorporation activities occurring after the elections; and
 - (vii) any other cost incurred by the lieutenant governor in relation to an incorporation proceeding.
 - (b) A cost under Subsection (1)(a) does not include a cost incurred by a county for holding an election under Section 10-2a-210.
- (2) Subject to Subsection (3)(a), the lieutenant governor shall, by supplemental appropriations, pay for a cost described in Subsections (1)(a)(i) through (vii).
- (3) If incorporation occurs, the new city shall pay:
 - (a) to the lieutenant governor each fee established under Subsection (1) for each incurred cost described in Subsections (1)(a)(i) through (vii); and
 - (b) the county for a cost described in Subsection (1)(b).

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-221 Incorporation petition or feasibility study before May 8, 2012.

- (1) A party with a petition in process as of January 1, 2012, and not yet filed for final certification with the county clerk in accordance with Section 10-2a-209 as of May 8, 2012, shall comply with the provisions of this chapter as enacted on May 8, 2012, except as provided in Subsection (3).
- (2) A party described in Subsection (1) may use a signature on a petition in process as of May 8, 2012, to fulfill the requirements of this chapter enacted on May 8, 2012.
- (3) If on or before May 8, 2012, a feasibility study has been completed for a party described in Subsection (1):
 - (a) the completed feasibility study shall fulfill the requirements of this section; and
 - (b) the party is not required to request a new feasibility study.

Renumbered and Amended by Chapter 352, 2015 General Session

Part 3
Incorporation of a Town

10-2a-301 Title.

This part is known as "Incorporation of a Town."

Enacted by Chapter 352, 2015 General Session

10-2a-302 Incorporation of a town -- Petition.

(1) As used in this section:

- (a) "Assessed value," with respect to agricultural land, means the value at which the land would be assessed without regard to a valuation for agricultural use under Section 59-2-503.
- (b) "Feasibility consultant" means a person or firm:
 - (i) with expertise in the processes and economics of local government; and
 - (ii) who is independent of and not affiliated with a county or sponsor of a petition to incorporate.
- (c) "Financial feasibility study" means a study described in Subsection (7).
- (d) "Municipal service" means a publicly provided service that is not provided on a countywide basis.
- (e) "Nonurban" means having a residential density of less than one unit per acre.

(2)

- (a)
 - (i) A contiguous area of a county not within a municipality, with a population of at least 100 but less than 1,000, may incorporate as a town as provided in this section.
 - (ii) An area within a county of the first class is not contiguous for purposes of Subsection (2)(a)
 - (i) if:
 - (A) the area includes a strip of land that connects geographically separate areas; and
 - (B) the distance between the geographically separate areas is greater than the average width of the strip of land connecting the geographically separate areas.
- (b) The population figure under Subsection (2)(a) shall be determined:
 - (i) as of the date the incorporation petition is filed; and
 - (ii) by the Utah Population Estimates Committee within 20 days after the county clerk's certification under Subsection (6) of a petition filed under Subsection (4).

(3)

- (a) The process to incorporate an area as a town is initiated by filing a petition to incorporate the area as a town with the Office of the Lieutenant Governor.
- (b) A petition under Subsection (3)(a) shall:
 - (i) be signed by:
 - (A) the owners of private real property that:
 - (I) is located within the area proposed to be incorporated; and
 - (II) is equal in assessed value to more than 1/5 of the assessed value of all private real property within the area; and
 - (B) 1/5 of all registered voters within the area proposed to be incorporated as a town, according to the official voter registration list maintained by the county on the date the petition is filed;
 - (ii) designate as sponsors at least five of the property owners who have signed the petition, one of whom shall be designated as the contact sponsor, with the mailing address of each owner signing as a sponsor;
 - (iii) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing a legal description of the boundary of the proposed town; and
 - (iv) substantially comply with and be circulated in the following form:

PETITION FOR INCORPORATION OF (insert the proposed name of the proposed town)

To the Honorable Lieutenant Governor:

We, the undersigned owners of real property and registered voters within the area described in this petition, respectfully petition the lieutenant governor to direct the county legislative body to submit to the registered voters residing within the area described in this petition, at the next regular general election, the question of whether the area should incorporate as a town. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property or a registered voter residing within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a town is described as follows: (insert an accurate description of the area proposed to be incorporated).

- (c) A petition under this Subsection (3) may not describe an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:
 - (i) was filed before the filing of the petition; and
 - (ii) is still pending on the date the petition is filed.
- (d) A petition may not be filed under this section if the private real property owned by the petition sponsors, designated under Subsection (3)(b)(ii), cumulatively exceeds 40% of the total private land area within the area proposed to be incorporated as a town.
- (e) A signer of a petition under this Subsection (3) may withdraw or, after withdrawn, reinstate the signer's signature on the petition:
 - (i) at any time until the lieutenant governor certifies the petition under Subsection (5); and
 - (ii) by filing a signed, written withdrawal or reinstatement with the lieutenant governor.
- (4)
 - (a) If a petition is filed under Subsection (3)(a) proposing to incorporate as a town an area located within a county of the first class, the lieutenant governor shall deliver written notice of the proposed incorporation:
 - (i) to each owner of private real property owning more than 1% of the assessed value of all private real property within the area proposed to be incorporated as a town; and
 - (ii) within seven calendar days after the date on which the petition is filed.
 - (b) A private real property owner described in Subsection (4)(a)(i) may exclude all or part of the owner's property from the area proposed to be incorporated as a town by filing a notice of exclusion:
 - (i) with the lieutenant governor; and
 - (ii) within 10 calendar days after receiving the clerk's notice under Subsection (4)(a).
 - (c) The lieutenant governor shall exclude from the area proposed to be incorporated as a town the property identified in the notice of exclusion under Subsection (4)(b) if:
 - (i) the property:
 - (A) is nonurban; and
 - (B) does not and will not require a municipal service; and
 - (ii) exclusion will not leave an unincorporated island within the proposed town.
 - (d) If the lieutenant governor excludes property from the area proposed to be incorporated as a town, the lieutenant governor shall send written notice of the exclusion to the contact sponsor within five days after the exclusion.
- (5) No later than 20 days after the filing of a petition under Subsection (3), the lieutenant governor shall:

- (a) with the assistance of other county officers of the county in which the incorporation is proposed from whom the lieutenant governor requests assistance, determine whether the petition complies with the requirements of Subsection (3); and
 - (b)
 - (i) if the lieutenant governor determines that the petition complies with those requirements:
 - (A) certify the petition; and
 - (B) mail or deliver written notification of the certification to:
 - (I) the contact sponsor; and
 - (II) the Utah Population Estimates Committee; or
 - (ii) if the lieutenant governor determines that the petition fails to comply with any of those requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.
- (6)
- (a)
 - (i) A petition that is rejected under Subsection (5)(b)(ii) may be amended to correct a deficiency for which it was rejected and then refiled with the lieutenant governor.
 - (ii) A valid signature on a petition filed under Subsection (3)(a) may be used toward fulfilling the signature requirement of Subsection (3)(b) for the same petition that is amended under Subsection (6)(a)(i) and then refiled with the lieutenant governor.
 - (b) If a petition is amended and refiled under Subsection (6)(a)(i) after having been rejected by the lieutenant governor under Subsection (5)(b)(ii):
 - (i) the amended petition shall be considered as a newly filed petition; and
 - (ii) the amended petition's processing priority is determined by the date on which it is refiled.
- (7)
- (a)
 - (i) If a petition is filed under Subsection (4) and certified under Subsection (6), the lieutenant governor shall commission and pay for a financial feasibility study.
 - (ii) The feasibility consultant shall be chosen:
 - (A)
 - (I) by the contact sponsor of the incorporation petition, as described in Subsection (3)(b)(ii), with the consent of the lieutenant governor; or
 - (II) by the lieutenant governor if the contact sponsor states, in writing, that the sponsor defers selection of the feasibility consultant to the lieutenant governor; and
 - (B) in accordance with applicable county procurement procedure.
 - (iii) The lieutenant governor shall require the feasibility consultant to complete the financial feasibility study and submit written results of the study to the lieutenant governor no later than 30 days after the feasibility consultant is engaged to conduct the financial feasibility study.
 - (b) The financial feasibility study shall consider the:
 - (i) population and population density within the area proposed for incorporation and the surrounding area;
 - (ii) current and five-year projections of demographics and economic base in the proposed town and surrounding area, including household size and income, commercial and industrial development, and public facilities;
 - (iii) projected growth in the proposed town and in adjacent areas during the next five years;
 - (iv) subject to Subsection (7)(c), the present and five-year projections of the cost, including overhead, of governmental services in the proposed town, including:
 - (A) culinary water;

- (B) secondary water;
 - (C) sewer;
 - (D) law enforcement;
 - (E) fire protection;
 - (F) roads and public works;
 - (G) garbage;
 - (H) weeds; and
 - (I) government offices;
 - (v) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed town; and
 - (vi) a projection of any new taxes per household that may be levied within the incorporated area within five years of incorporation.
- (c)
- (i) For purposes of Subsection (7)(b)(iv), the feasibility consultant shall assume a level and quality of governmental services to be provided to the proposed town in the future that fairly and reasonably approximate the level and quality of governmental services being provided to the proposed town at the time of the feasibility study.
 - (ii) In determining the present cost of a governmental service, the feasibility consultant shall consider:
 - (A) the amount it would cost the proposed town to provide governmental service for the first five years after incorporation; and
 - (B) the county's present and five-year projected cost of providing governmental service.
 - (iii) The costs calculated under Subsection (7)(b)(iv), shall take into account inflation and anticipated growth.
- (d) If the five year projected revenues under Subsection (7)(b)(v) exceed the five-year projected costs under Subsection (7)(b)(iv) by more than 10%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.
- (e) The lieutenant governor shall post a copy of the feasibility study on the lieutenant governor's website and make a copy available for public review at the Office of the Lieutenant Governor.
- (f) The lieutenant governor shall approve a certified petition proposing the incorporation of a town and hold a public hearing as provided in Section 10-2a-303.

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-303 Incorporation of a town -- Public hearing on feasibility.

- (1) If, in accordance with Section 10-2a-302, the lieutenant governor certifies a petition for incorporation or an amended petition for incorporation, the lieutenant governor shall, after completion of the feasibility study, schedule a public hearing to:
 - (a) be held no later than 60 days after the day on which the feasibility study is completed; and
 - (b) consider, in accordance with Subsection (3)(b), the feasibility of incorporation for the proposed town.
- (2)
 - (a) The lieutenant governor shall give notice of the public hearing on the proposed incorporation by:
 - (i)

- (A) publishing notice of the public hearing at least once a week for two consecutive weeks in a newspaper of general circulation within the proposed town; or
- (B) if there is no newspaper of general circulation within the proposed town, posting notice of the public hearing in at least five conspicuous public places within the proposed town; and
- (ii) publishing notice of the public hearing on the Utah Public Notice Website created in Section 63F-1-701.
- (b) The county in which the incorporation is proposed shall post the notice described in Subsection (2)(a)(ii) on the county's website, if the county has a website, for at least two consecutive weeks before the day of the public hearing.
- (3) At the public hearing scheduled in accordance with Subsection (1), the lieutenant governor shall:
 - (a)
 - (i) provide a copy of the feasibility study; and
 - (ii) present the results of the feasibility study to the public; and
 - (b) allow the public to:
 - (i) review the map or plat of the boundary of the proposed town;
 - (ii) ask questions and become informed about the proposed incorporation; and
 - (iii) express its views about the proposed incorporation, including their views about the boundary of the area proposed to be incorporated.
- (4) A county under the direction of the lieutenant governor may not hold an election on the incorporation of a town in accordance with Section 10-2a-304 if the results of the feasibility study show that the five-year projected revenues under Subsection 10-2a-302(7)(b)(v) exceed the five-year projected costs under Subsection 10-2a-302(7)(b)(iv) by more than 10%.

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-304 Incorporation of a town -- Election to incorporate -- Ballot form.

- (1)
 - (a) Upon receipt of a certified petition or a certified amended petition under Section 10-2a-302, the lieutenant governor shall:
 - (i) determine and set an election date for the incorporation election that is:
 - (A) on a regular general election date under Section 20A-1-201 or on a local special election date under Section 20A-1-203; and
 - (B) at least 65 days after the day that the legislative body receives the certified petition; and
 - (ii) direct the county legislative body of the county in which the incorporation is proposed to hold the election on the date determined by the lieutenant governor in accordance with Subsection (1)(a)(i).
 - (b) The county shall hold the election as directed by the lieutenant governor in accordance with Subsection (1)(a)(ii).
 - (c) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed town, the person may not vote on the proposed incorporation.
- (2)
 - (a) The county clerk shall publish notice of the election:
 - (i) in a newspaper of general circulation, within the area proposed to be incorporated, at least once a week for three successive weeks; and
 - (ii) in accordance with Section 45-1-101 for three weeks.
 - (b) The notice required by Subsection (2)(a) shall contain:

- (i) a statement of the contents of the petition;
 - (ii) a description of the area proposed to be incorporated as a town;
 - (iii) a statement of the date and time of the election and the location of polling places; and
 - (iv) the lieutenant governor's Internet website address, if applicable, and the address of the Office of the Lieutenant Governor where the feasibility study is available for review.
- (c) The last publication of notice required under Subsection (2)(a) shall occur at least one day but no more than seven days before the election.
- (d)
- (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed town, the county clerk shall post at least one notice of the election per 100 population in conspicuous places within the proposed town that are most likely to give notice of the election to the voters of the proposed town.
 - (ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1)(a).
- (3) The ballot at the incorporation election shall pose the incorporation question substantially as follows: Shall the area described as (insert a description of the proposed town) be incorporated as the town of (insert the proposed name of the proposed town)?
- (4) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (3).
- (5) If a majority of those casting votes within the area boundaries of the proposed town vote to incorporate as a town, the area shall incorporate.

Amended by Chapter 96, 2015 General Session

Amended by Chapter 111, 2015 General Session

Amended by Chapter 157, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

Amended by Chapter 352, 2015 General Session, (Coordination Clause)

10-2a-305 Form of government -- Determination of council officer terms -- Hearings and notice.

- (1) A newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102.
- (2) If the incorporation proposal passes, the petition sponsors shall, within 25 days of the canvass of the election under Section 10-2a-304:
- (a) determine the initial terms of the mayor and members of the city council so that:
 - (i) the mayor and approximately half the members of the town council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and
 - (ii) the remaining members of the town council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and
 - (b) submit in writing to the county legislative body the results of the sponsors' determinations under Subsection (2)(a).
- (3)
- (a) Before making a determination under Subsection (2)(a), the petition sponsors shall hold a public hearing within the future town on the applicable issues under Subsections (2)(a)(i) and (ii).
 - (b)

- (i) The petition sponsors shall publish notice of the public hearing under Subsection (3)(a):
 - (A) in a newspaper of general circulation within the future town at least once a week for two successive weeks before the day of the hearing; and
 - (B) on the Utah Public Notice Website, created in Section 63F-1-701, for two weeks before the day of the hearing.
 - (ii) The last publication of notice under Subsection (3)(b)(i)(A) shall be at least three days before the day of the public hearing under Subsection (3)(a).
- (c)
- (i) In accordance with Subsection (3)(b)(i)(A), if there is no newspaper of general circulation within the future town, the petition sponsors shall post at least one notice of the hearing per 1,000 population in conspicuous places within the future town that are most likely to give notice of the hearing to the residents of the future town.
 - (ii) The petition sponsors shall post the notices under Subsection (3)(c)(i) at least seven days before the day that the hearing is held under Subsection (3)(a).

Repealed and Re-enacted by Chapter 111, 2015 General Session
Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-305.1 Notice of number of council members to be elected and of district boundaries -- Declaration of candidacy for city office -- Occupation of office.

- (1)
- (a) Within 20 days of the county legislative body's receipt of the information under Subsection 10-2a-305(2)(b), the county clerk shall publish, in accordance with Subsection (1)(b), notice containing:
 - (i) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for mayor or town council; and
 - (ii) information about the length of the initial term of each of the town officers, as determined by the petition sponsors under Subsection 10-2a-305(2)(a).
 - (b) The notice under Subsection (1)(a) shall be published:
 - (i) in a newspaper of general circulation within the future town at least once a week for two successive weeks; and
 - (ii) in accordance with Section 45-1-101 for two weeks.
 - (c)
 - (i) In accordance with Subsection (1)(b)(i), if there is no newspaper of general circulation within the future city, the county clerk shall post at least one notice per 1,000 population in conspicuous places within the future town that are most likely to give notice to the residents of the future town.
 - (ii) The notice under Subsection (1)(c)(i) shall contain the information required under Subsection (1)(a).
 - (iii) The petition sponsors shall post the notices under Subsection (1)(c)(i) at least seven days before the deadline for filing a declaration of candidacy under Subsection (2).
- (2) Notwithstanding Subsection 20A-9-203(2)(a), each person seeking to become a candidate for mayor or town council of a town incorporating under this part shall, within 45 days of the incorporation election under Section 10-2a-304, file a declaration of candidacy with the clerk of the county in which the future town is located.

Enacted by Chapter 111, 2015 General Session
Amended by Chapter 352, 2015 General Session, (Coordination Clause)

10-2a-305.2 Election of officers of new town -- Primary and final election dates -- County clerk duties -- Candidate duties -- Occupation of office.

- (1) For the election of town officers, the county legislative body shall:
 - (a) unless a primary election is prohibited by Subsection 20A-9-404(2), hold a primary election; and
 - (b) hold a final election unless the election may be cancelled in accordance with Section 20A-1-206.
- (2) Each election under Subsection (1) shall be consistent with the petition sponsors' determination of the length of each council member's initial term.
- (3)
 - (a) Subject to Subsection (3)(b), the primary election under Subsection (1)(a) shall be held on one of the following election dates:
 - (i) notwithstanding Subsection 20A-1-201.5(2), regular general election under Section 20A-1-201;
 - (ii) notwithstanding Subsection 20A-1-201.5(2), regular primary election under Subsection 20A-1-201.5(1);
 - (iii) municipal primary election under Section 20A-9-404; or
 - (iv) notwithstanding Subsection 20A-1-201.5(2), municipal general election under Section 20A-1-202.
 - (b) The county shall hold the primary election, if necessary, at the earliest of the next election date listed in Subsection (3)(a)(i), (ii), (iii), or (iv) that is at least:
 - (i) 75 days after the incorporation election under Section 10-2a-304; and
 - (ii) 65 days after the last day of the candidate filing period.
- (4)
 - (a) Subject to Subsection (4)(b), the county shall hold the final election under Subsection (1)(b) on one of the following election dates:
 - (i) regular general election under Section 20A-1-201;
 - (ii) municipal primary election under Section 20A-9-404;
 - (iii) municipal general election under Section 20A-1-202; or
 - (iv) regular primary election under Section 20A-1-201.5.
 - (b) The county shall hold the final election on the next earliest election date listed in Subsection (4)(a)(i), (ii), (iii), or (iv):
 - (i) that is after a primary election; or
 - (ii) if there is no primary election, that is at least:
 - (A) 75 days after the incorporation election under Section 10-2a-210; and
 - (B) 65 days after the candidate filing period.
- (5)
 - (a)
 - (i) The county clerk shall publish notice of an election under this section:
 - (A) at least once a week for two successive weeks in a newspaper of general circulation within the future town; and
 - (B) in accordance with Section 45-1-101 for two weeks.
 - (ii) The later notice under Subsection (5)(a)(i) shall be at least one day but no more than seven days before the election.
 - (b)
 - (i) In accordance with Subsection (5)(a)(i)(A), if there is no newspaper of general circulation within the future town, the county clerk shall post at least one notice of the election per

1,000 population in conspicuous places within the future town that are most likely to give notice of the election to the voters.

- (ii) The county clerk shall post the notices under Subsection (5)(b)(i) at least seven days before an election under Subsection (1)(a) or (b).
- (6)
 - (a) Until the town is incorporated, the county clerk:
 - (i) is the election officer for all purposes in an election of officers of the town approved at an incorporation election; and
 - (ii) may, as necessary, determine appropriate deadlines, procedures, and instructions that are not otherwise contrary to law.
 - (b) The county clerk shall require and determine deadlines for the filing of campaign financial disclosures of town officer candidates in accordance with Section 10-3-208.
 - (c) The county clerk is responsible to ensure that:
 - (i) a primary or final election for the officials of a newly incorporated town is held on a date authorized by this section; and
 - (ii) the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated town and the term of each office.
- (7) A person who has filed as a candidate for an office described in this section shall comply with the campaign finance disclosure requirements of Section 10-3-208 and requirements and deadlines as lawfully set forth by the county clerk.
- (8) Notwithstanding Section 10-3-201, the officers elected at a final election described in Subsection (4)(a) shall take office:
 - (a) after taking the oath of office; and
 - (b) at noon on the first Monday following the day on which the election official transmits a certificate of nomination or election under the officer's seal to each elected candidate in accordance with Subsection 20A-4-304(2)(c)(ii).

Enacted by Chapter 111, 2015 General Session

Amended by Chapter 352, 2015 General Session, (Coordination Clause)

10-2a-306 Notice to lieutenant governor -- Effective date of incorporation -- Effect of recording documents.

- (1) The mayor of the future town shall:
 - (a) within 30 days after the canvass of the election of town officers under Section 10-2a-305.2, file with the lieutenant governor:
 - (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
 - (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and
 - (b) upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5:
 - (i) if the town is located within the boundary of a single county, submit to the recorder of that county the original:
 - (A) notice of an impending boundary action;
 - (B) certificate of incorporation; and
 - (C) approved final local entity plat; or
 - (ii) if the town is located within the boundaries of more than a single county, submit the original of the documents listed in Subsections (1)(b)(i)(A), (B), and (C) to one of those counties and a certified copy of those documents to each other county.

- (2)
- (a) A new town is incorporated:
- (i) on December 31 of the year in which the lieutenant governor issues a certificate of incorporation under Section 67-1a-6.5, if the election of town officers under Section 10-2a-305.2 is held on a regular general or municipal general election date; or
 - (ii) on the last day of the month during which the lieutenant governor issues a certificate of incorporation under Section 67-1a-6.5, if the election of town officers under Section 10-2a-305.2 is held on any other date.
- (b)
- (i) The effective date of an incorporation for purposes of assessing property within the new town is governed by Section 59-2-305.5.
 - (ii) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated town may not:
 - (A) levy or collect a property tax on property within the town;
 - (B) levy or collect an assessment on property within the town; or
 - (C) charge or collect a fee for service provided to property within the town.

Amended by Chapter 111, 2015 General Session

Renumbered and Amended by Chapter 352, 2015 General Session

10-2a-307 Costs of town incorporation -- Fees established by lieutenant governor.

- (1)
- (a) The lieutenant governor shall establish a fee in accordance with Section 63J-1-504 for a cost of an incorporation proceeding, including:
- (i) a request certification;
 - (ii) a feasibility study;
 - (iii) a petition certification;
 - (iv) publication of notices;
 - (v) public hearings;
 - (vi) all other incorporation activities occurring after the elections; and
 - (vii) any other cost incurred by the lieutenant governor in relation to an incorporation proceeding.
- (b) A cost under Subsection (1)(a) does not include a cost incurred by a county for holding an election under Section 10-2a-304.
- (2) Subject to Subsection (3)(a), the lieutenant governor shall, by supplemental appropriations, pay for a cost described in Subsections (1)(a)(i) through (vii).
- (3) If incorporation occurs, the new town shall pay:
- (a) to the lieutenant governor each fee established under Subsection (1) for each incurred cost described in Subsections (1)(a)(i) through (vii); and
 - (b) the county for a cost described in Subsection (1)(b).

Enacted by Chapter 157, 2015 General Session

Amended by Chapter 352, 2015 General Session, (Coordination Clause)

Part 4

Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015

10-2a-401 Title.

This part is known as "Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015."

Enacted by Chapter 352, 2015 General Session

10-2a-402 Application.

- (1) The provisions of this part:
 - (a) apply to the following located in a county of the first class:
 - (i) a planning township established before January 1, 2015; and
 - (ii) subject to Subsection (2), an unincorporated island located in a county of the first class on or after May 12, 2015, and before November 4, 2015; and
 - (b) do not apply to a planning advisory area, as defined in Section 17-27a-103, or any other unincorporated area located outside of a county of the first class.
- (2)
 - (a) The provisions of Part 2, Incorporation of a City, and Part 3, Incorporation of a Town, apply to an unincorporated area described in Subsection (1) for an incorporation as a city after November 3, 2015.
 - (b) The provisions of Chapter 2, Part 4, Annexation:
 - (i) do not apply to an unincorporated island for purposes of annexation before November 4, 2015, unless:
 - (A) otherwise indicated; or
 - (B) before July 1, 2015, an annexation petition is filed in accordance with Section 10-2-403 or an intent to annex resolution is adopted in accordance with Subsection 10-2-418(2)(a)(i); and
 - (ii) apply to an unincorporated island that is not annexed at an election under this part for purposes of annexation on or after November 4, 2015.

Enacted by Chapter 352, 2015 General Session

10-2a-403 Definitions.

As used in this section:

- (1) "Ballot proposition" means the same as that term is defined in Section 20A-1-102.
- (2) "Eligible city" means a city whose legislative body adopts a resolution agreeing to annex an unincorporated island.
- (3) "Local special election" means the same as that term is defined in Section 20A-1-102.
- (4) "Municipal services district" means a district created in accordance with Title 17B, Chapter 2a, Part 11, Municipal Services District Act.
- (5)
 - (a) "Metro township" means, except as provided in Subsection (5)(b), a planning township that is incorporated in accordance with this part.
 - (b) "Metro township" does not include a township as that term is used in the context of identifying a geographic area in common surveyor practice.
- (6)

- (a) "Planning township" means an area located in a county of the first class that is established before January 1, 2015, as a township as defined in and established in accordance with law before the enactment of Laws of Utah 2015, Chapter 352.
 - (b) "Planning township" does not include rural real property unless the owner of the rural real property provides written consent in accordance with Section 10-2a-405.
- (7)
- (a) "Unincorporated island" means an unincorporated area that is completely surrounded by one or more municipalities.
 - (b) "Unincorporated island" does not include a planning township.

Enacted by Chapter 352, 2015 General Session
Revisor instructions Chapter 352, 2015 General Session

10-2a-404 Election.

- (1)
- (a) Notwithstanding Section 20A-1-203, a county of the first class shall hold a local special election on November 3, 2015, on the following ballot propositions:
 - (i) for registered voters residing within a planning township:
 - (A) whether the planning township shall be incorporated as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and
 - (B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district; and
 - (ii) for registered voters residing within an unincorporated island, whether the island should maintain its unincorporated status or be annexed into an eligible city.
 - (b)
 - (i) A metro township incorporated under this part shall be governed by the five-member council in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government.
 - (ii) A city or town incorporated under this part shall be governed by the five-member council form of government as defined in Section 10-3b-102.
- (2) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of a planning township or an unincorporated island, the person may not vote on the proposed incorporation or annexation.
- (3) The county clerk shall publish notice of the election:
- (a) in a newspaper of general circulation within the planning township or unincorporated island at least once a week for three successive weeks; and
 - (b) in accordance with Section 45-1-101 for three weeks.
- (4) The notice required by Subsection (3) shall contain:
- (a) for residents of a planning township:
 - (i) a statement that the voters will vote:
 - (A) to incorporate as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and
 - (B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district;
 - (ii) if applicable under Subsection 10-2a-405(5), a map showing the alteration to the planning township boundaries that would be effective upon incorporation;
 - (iii) a statement that if the residents of the planning township elect to incorporate:

- (A) as a metro township, the metro township shall be governed by a five-member metro township council in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government; or
- (B) as a city or town, the city or town shall be governed by the five-member council form of government as defined in Section 10-3b-102; and
- (iv) a statement of the date and time of the election and the location of polling places;
- (b) for residents of an unincorporated island:
 - (i) a statement that the voters will vote either to be annexed into an eligible city or maintain unincorporated status; and
 - (ii) a statement of the eligible city, as determined by the county legislative body in accordance with Section 10-2a-405, the unincorporated island may elect to be annexed by; and
- (c) a statement of the date and time of the election and the location of polling places.
- (5) The last publication of notice required under Subsection (3) shall occur at least one day but no more than seven days before the election.
- (6)
 - (a) In accordance with Subsection (3)(a), if there is no newspaper of general circulation within the proposed metro township or unincorporated island, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the planning township or unincorporated island that are most likely to give notice of the election to the voters of the proposed incorporation or annexation.
 - (b) The clerk shall post the notices under Subsection (6)(a) at least seven days before the election under Subsection (1).
- (7)
 - (a) In a planning township, if a majority of those casting votes within the planning township vote to:
 - (i) incorporate as a city or town, the planning township shall incorporate as a city or town, respectively; or
 - (ii) incorporate as a metro township, the planning township shall incorporate as a metro township.
 - (b) If a majority of those casting votes within the planning township vote to incorporate as a metro township, and a majority of those casting votes vote to include the metro township in a municipal services district and limit the metro township's municipal powers, the metro township shall be included in a municipal services district and have limited municipal powers.
 - (c) In an unincorporated island, if a majority of those casting a vote within the selected unincorporated island vote to:
 - (i) be annexed by the eligible city, the area shall be annexed by the eligible city; or
 - (ii) remain an unincorporated area, the area shall remain unincorporated.
- (8) The county shall, in consultation with interested parties, prepare and provide information on an annexation or incorporation subject to this part and an election held in accordance with this section.

Enacted by Chapter 352, 2015 General Session

10-2a-405 Duties of county legislative body -- Public hearing -- Notice -- Other election and incorporation issues -- Rural real property excluded.

- (1) The legislative body of a county of the first class shall before an election described in Section 10-2a-404:

- (a) in accordance with Subsection (3), publish notice of the public hearing described in Subsection (1)(b);
- (b) hold a public hearing; and
- (c) at the public hearing, adopt a resolution:
 - (i) identifying, including a map prepared by the county surveyor, all unincorporated islands within the county;
 - (ii) identifying each eligible city that will annex each unincorporated island, including whether the unincorporated island may be annexed by one eligible city or divided and annexed by multiple eligible cities, if approved by the residents at an election under Section 10-2a-404; and
 - (iii) identifying, including a map prepared by the county surveyor, the planning townships within the county and any changes to the boundaries of a planning township that the county legislative body proposes under Subsection (5).
- (2) The county legislative body shall exclude from a resolution adopted under Subsection (1)(c) rural real property unless the owner of the rural real property provides written consent to include the property in accordance with Subsection (6).
- (3)
 - (a) The county clerk shall publish notice of the public hearing described in Subsection (1)(b):
 - (i) by mailing notice to each owner of real property located in an unincorporated island or planning township no later than 15 days before the day of the public hearing;
 - (ii) at least once a week for three successive weeks in a newspaper of general circulation within each unincorporated island, each eligible city, and each planning township; and
 - (iii) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the public hearing.
 - (b) The last publication of notice required under Subsection (3)(a)(ii) shall be at least three days before the first public hearing required under Subsection (1)(b).
 - (c)
 - (i) If, under Subsection (3)(a)(ii), there is no newspaper of general circulation within an unincorporated island, an eligible city, or a planning township, the county clerk shall post at least one notice of the hearing per 1,000 population in conspicuous places within the selected unincorporated island, eligible city, or planning township, as applicable, that are most likely to give notice of the hearing to the residents of the unincorporated island, eligible city, or planning township.
 - (ii) The clerk shall post the notices under Subsection (3)(c)(i) at least seven days before the hearing under Subsection (1)(b).
 - (d) The notice under Subsection (3)(a) or (c) shall include:
 - (i)
 - (A) for a resident of an unincorporated island, a statement that the property in the unincorporated island may be, if approved at an election under Section 10-2a-404, annexed by an eligible city, including divided and annexed by multiple cities if applicable, and the name of the eligible city or cities; or
 - (B) for residents of a planning township, a statement that the property in the planning township shall be, pending the results of the election held under Section 10-2a-404, incorporated as a city, town, or metro township;
 - (ii) the location and time of the public hearing; and
 - (iii) the county website where a map may be accessed showing:
 - (A) how the unincorporated island boundaries will change if annexed by an eligible city; or

- (B) how the planning township area boundaries will change, if applicable under Subsection (5), when the planning township incorporates as a metro township or as a city or town.
- (e) The county clerk shall publish a map described in Subsection (3)(d)(iii) on the county website.
- (4) The county legislative body may, by ordinance or resolution adopted at a public meeting and in accordance with applicable law, resolve an issue that arises with an election held in accordance with this part or the incorporation and establishment of a metro township in accordance with this part.
- (5)
 - (a) The county legislative body may, by ordinance or resolution adopted at a public meeting, change the boundaries of a planning township.
 - (b) A change to a planning township boundary under this Subsection (5) is effective only upon the vote of the residents of the planning township at an election under Section 10-2a-404 to incorporate as a metro township or as a city or town and does not affect the boundaries of the planning township before the election.
 - (c) The county legislative body:
 - (i) may alter a planning township boundary under Subsection (5)(a) only if the alteration:
 - (A) affects less than 5% of the residents residing within the planning advisory area; and
 - (B) does not increase the area located within the planning township's boundaries; and
 - (ii) may not alter the boundaries of a planning township whose boundaries are entirely surrounded by one or more municipalities.
- (6)
 - (a) As used in this Subsection (6), "rural real property" means an area:
 - (i) zoned primarily for manufacturing, commercial, or agricultural purposes; and
 - (ii) that does not include residential units with a density greater than one unit per acre.
 - (b) Unless an owner of rural real property gives written consent to a county legislative body, rural real property described in Subsection (6)(c) may not be:
 - (i) included in a planning township identified under Subsection (1)(c); or
 - (ii) incorporated as part of a metro township, city, or town, in accordance with this part.
 - (c) The following rural real property is subject to an owner's written consent under Subsection (6)(b):
 - (i) rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;
 - (ii) rural real property that is not contiguous to, but used in connection with, rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;
 - (iii) rural real property that is owned, managed, or controlled by a person, company, or association, including a parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels; or
 - (iv) rural real property that is located in whole or in part in one of the following as defined in Section 17-41-101:
 - (A) an agricultural protection area;
 - (B) an industrial protection area; or
 - (C) a mining protection area.

Enacted by Chapter 352, 2015 General Session

10-2a-406 Ballot used at metro township incorporation election.

- (1) The ballot at the election to incorporate a planning township as a metro township or as a city or town, respectively, shall pose:
 - (a) the incorporation question substantially as follows:

"Shall [insert name of planning township] be incorporated as a metro township [insert the proposed name of the proposed metro township, which is the formal name of the planning township with the words "metro township" immediately after the formal name] or as the [insert the appropriate designation of city or town based on population classification] of [insert the proposed name of the proposed city or town, respectively, which is the formal name of the planning township with, if the area qualifies as a city under the population classifications, the word "city" immediately after the formal name or if the area qualifies as a town under the population classification, the words "town of" immediately preceding the formal name]?"; and
 - (b) the question, if a metro township is incorporated, of whether a metro township shall be a metro township with limited municipal powers that is included in a municipal services district substantially as follows:

"If the majority of voters voting in this election vote to incorporate as a metro township, shall the metro township be a metro township with limited municipal powers that is included in a municipal services district?".
- (2) The ballot shall provide a space for the voter to indicate:
 - (a) either the metro township or the city or town, respectively, as described in Subsection (1)(a); and
 - (b) whether the metro township shall be a metro township with limited municipal powers that is included in a municipal services district.

Enacted by Chapter 352, 2015 General Session

10-2a-407 Ballot used at unincorporated island annexation election.

- (1) The ballot at the election to either annex an unincorporated island into an eligible city or to remain an unincorporated island shall pose the question substantially as follows:

"Shall [insert description of the unincorporated island or part of an island identified in the resolution adopted under Section 10-2a-405] be annexed by [insert name of eligible city identified in the resolution adopted under Section 10-2a-405] or remain unincorporated?".
- (2) The ballot shall provide:
 - (a) a map of the selected unincorporated island and the eligible city; and
 - (b) a space for the voter to indicate either to annex into the eligible city or to remain an unincorporated area as described in Subsection (1).

Enacted by Chapter 352, 2015 General Session

10-2a-408 Notification to lieutenant governor of incorporation election results.

Within 10 days of the canvass of the incorporation and annexation election, the county clerk shall send written notice to the lieutenant governor of:

- (1) the results of the election;
- (2) for a planning township:
 - (a) if the incorporation of a planning township as a metro township passes:
 - (i) the name of the metro township; and
 - (ii) the class of the metro township as provided under Section 10-2-301.5; and
 - (b) if the incorporation of a planning township as a city or town passes:
 - (i) the name of the city or town; and

- (ii) if the incorporated area is a city, the class of the city as defined in Section 10-2-301; and
- (3) for an unincorporated island, whether the unincorporated island or a portion of the island shall be annexed into an eligible city.

Enacted by Chapter 352, 2015 General Session

10-2a-409 Unincorporated island annexation -- Notice and recording-- Applicable provisions.

- (1) If the annexation of an unincorporated island into an eligible city passes, the legislative body of the eligible city shall comply with Section 10-2-425.
- (2) The following provisions apply to an annexation under this part:
 - (a) Section 10-2-420;
 - (b) Section 10-2-421;
 - (c) Section 10-2-422;
 - (d) Section 10-2-426; and
 - (e) Section 10-2-428.

Enacted by Chapter 352, 2015 General Session

10-2a-410 Determination of metro township districts -- Determination of metro township or city initial officer terms -- Adoption of proposed districts.

- (1) If a metro township is incorporated in accordance with an election held under Section 10-2a-404:
 - (a) each of the five metro township council members shall be elected by district; and
 - (b) the boundaries of the five council districts for election and the terms of office shall be designated and determined in accordance with this section.
- (2)
 - (a) If a town is incorporated at an election held in accordance with Section 10-2a-404, the five council members shall be elected at large for terms as designated and determined in accordance with this section.
 - (b) If a city is incorporated at an election held in accordance with Section 10-2a-404:
 - (i)
 - (A) the four members of the council district who are not the mayor shall be elected by district; and
 - (B) the boundaries of the four council districts for election and the term of office shall be designated and determined in accordance with this section; and
 - (ii) the mayor shall be elected at large for a term designated and determined in accordance with this section.
- (3)
 - (a) No later than 90 days after the election day on which the metro township, city, or town is successfully incorporated under this part, the legislative body of the county in which the metro township is located shall adopt by resolution:
 - (i) subject to Subsection (3)(b), for each incorporated metro township, city, or town, the council terms for a length of time in accordance with this section; and
 - (ii)
 - (A) for a metro township, the boundaries of the five council districts; and
 - (B) for a city, the boundaries of the four council districts.
 - (b)

- (i) For each metro township, city, or town, the county legislative body shall set the initial terms of the members of the metro township council, city council, or town council so that:
 - (A) approximately half the members of the council, including the mayor in the case of a city, are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and
 - (B) the remaining members of the council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2).
 - (ii) For a metro township, the county legislative body shall divide the metro township into five council districts that comply with Section 10-3-205.5.
 - (iii) For a city, the county legislative body shall divide the city into four council districts that comply with Section 10-3-205.5.
- (4)
- (a) Within 20 days of the county legislative body's adoption of a resolution under Subsection (3), the county clerk shall publish, in accordance with Subsection (4)(b), notice containing:
 - (i) if applicable, a description of the boundaries of the metro township council or city council districts as designated in the resolution;
 - (ii) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for metro township council, city council, town council, or city mayor, respectively; and
 - (iii) information about the length of the initial term of city mayor or each of the metro township, city, or town council offices, as described in the resolution.
 - (b) The notice under Subsection (4)(a) shall be published:
 - (i) in a newspaper of general circulation within the metro township, city, or town at least once a week for two successive weeks; and
 - (ii) in accordance with Section 45-1-101 for two weeks.
 - (c)
 - (i) In accordance with Subsection (4)(b)(i), if there is no newspaper of general circulation within the future metro township, city, or town, the county clerk shall post at least one notice per 1,000 population in conspicuous places within the future metro township, city, or town that are most likely to give notice to the residents of the future metro township, city, or town.
 - (ii) The notice under Subsection (4)(c)(i) shall contain the information required under Subsection (4)(a).
 - (iii) The county clerk shall post the notices under Subsection (4)(c)(i) at least seven days before the deadline for filing a declaration of candidacy under Subsection (4)(d).
 - (d) A person seeking to become a candidate for metro township, city, or town council or city mayor shall, in accordance with Section 20A-9-202, file a declaration of candidacy with the clerk of the county in which the metro township, city, or town is located for an election described in Section 10-2a-411.

Enacted by Chapter 352, 2015 General Session

10-2a-411 Election of officers of new city, town, or metro township.

- (1) For the election of the initial office holders of a metro township, city, or town, respectively, incorporated under Section 10-2a-404, the county legislative body shall:

- (a) unless a primary election is prohibited by Subsection 20A-9-404(2), hold a primary election at the next regular primary election, as described in Section 20A-1-201.5, following the November 3, 2015, election to incorporate; and
 - (b) hold a final election at the next regular general election date following the election to incorporate.
- (2) An election under Subsection (1) for the officers of:
- (a) a metro township shall be consistent with the number of council members as described in Subsection 10-2a-404(1)(b)(i); and
 - (b) a city or town shall be consistent with the number of council members, including the city mayor as a member of a city council, described in Subsection 10-2a-404(1)(b)(ii).
- (3)
- (a)
 - (i) The county clerk shall publish notice of an election under this section:
 - (A) at least once a week for two successive weeks in a newspaper of general circulation within the future metro township, city, or town; and
 - (B) in accordance with Section 45-1-101 for two weeks.
 - (ii) The later notice under Subsection (3)(a)(i) shall be at least one day but no more than seven days before the election.
 - (b)
 - (i) In accordance with Subsection (3)(a)(i)(A), if there is no newspaper of general circulation within the future metro township, city, or town, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the future metro township, city, or town that are most likely to give notice of the election to the voters.
 - (ii) The county clerk shall post the notices under Subsection (3)(b)(i) at least seven days before each election under Subsection (1).
- (4)
- (a) Until the metro township, city, or town is incorporated, the county clerk is the election officer for all purposes in an election of officers of the metro township, city, or town.
 - (b) The county clerk is responsible to ensure that:
 - (i) if applicable, the primary election described in Subsection (1)(a) is held on the date described in Subsection (1)(a);
 - (ii) the final election described in Subsection (1)(b) is held on the date described in Subsection (1)(b); and
 - (iii) the ballot for each election includes each office that is required to be included for officials in the metro township, city, or town, and the length of term of each office.
- (5) The officers elected at an election described in Subsection (1)(b) shall take office at noon on the first Monday in January next following the election.

Enacted by Chapter 352, 2015 General Session

10-2a-412 Notification to lieutenant governor of election of officers.

Within 10 days of the canvass of final election of metro township, city, or town officers under Section 10-2a-411, the county clerk shall send written notice to the lieutenant governor of the name and position of each officer elected and the term for which each has been elected.

Enacted by Chapter 352, 2015 General Session

10-2a-413 Incorporation under this part subject to other provisions.

- (1) An incorporation of a metro township, city, or town under this part is subject to the following provisions to the same extent as the incorporation of a city under Part 2, Incorporation of a City:
 - (a) Section 10-2a-217;
 - (b) Section 10-2a-219; and
 - (c) Section 10-2a-220.
- (2) An incorporation of a city or town under this part is subject to Section 10-2a-218 to the same extent as the incorporation of a city or town under Part 2, Incorporation of a City.

Enacted by Chapter 352, 2015 General Session

Chapter 3 Municipal Government

Part 2 Election of Governing Body

10-3-201 Municipal general election -- Terms of office.

- (1) Consistent with Section 20A-1-202, on the Tuesday after the first Monday in November in odd-numbered years, a municipal general election shall be held in all municipalities to fill all elective offices vacated by 12 o'clock noon on the first Monday in the January following the election. The officers elected shall continue in the office to which they were elected for four years except in case of death, resignation, removal or disqualification from office.
- (2) The officers so elected shall begin their term of office at 12 o'clock noon on the first Monday in January following their election.

Amended by Chapter 256, 2007 General Session

10-3-202 Terms of elected municipal officers.

Each elected officer of a municipality shall hold office for the term for which he is elected and until his successor is chosen and qualified, unless the office becomes vacant under Section 10-3-301.

Amended by Chapter 32, 1990 General Session

10-3-205 Election of officers in municipalities operating under a city council form of government.

In each municipality operating under a five-member or six-member city council form of government, the election and terms of office shall be as follows:

- (1) The offices of mayor and approximately half the council members shall be filled in municipal elections held in 1977. The terms shall be for four years. These offices shall be filled every four years in municipal elections.
- (2) The offices of the remaining council members shall be filled in a municipal election held in 1979. The terms shall be for four years. These offices shall be filled every four years in municipal elections.

Amended by Chapter 202, 2004 General Session

10-3-205.5 At-large election of officers -- Election of commissioners or council members.

- (1) Except as provided in Subsection (2), (3), or (4), the officers of each city shall be elected in an at-large election held at the time and in the manner provided for electing municipal officers.
- (2)
 - (a) The governing body of a city may by ordinance provide for the election of some or all commissioners or council members, as the case may be, by district equal in number to the number of commissioners or council members elected by district.
 - (b)
 - (i) Each district shall be of substantially equal population as the other districts.
 - (ii) Within six months after the Legislature completes its redistricting process, the governing body of each city that has adopted an ordinance under Subsection (2)(a) shall make any adjustments in the boundaries of the districts as may be required to maintain districts of substantially equal population.
- (3)
 - (a) The municipal council members of a metro township, as defined in Section 10-2a-403, are elected:
 - (i) by district in accordance with Subsection 10-2a-410(1)(a)(i); or
 - (ii) at large in accordance with Subsection 10-2a-410(1)(b).
 - (b) The council districts in a metro township shall comply with the requirements of Subsections (2)(b)(i) and (ii).
- (4)
 - (a) For a city incorporated in accordance with Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015:
 - (i) the council members are elected by district in accordance with Section 10-2a-410; and
 - (ii) the mayor is elected at large in accordance with Section 10-2a-410.
 - (b) The council districts in a city described in Subsection (4)(a) shall comply with the requirements of Subsections (2)(b)(i) and (ii).

Amended by Chapter 352, 2015 General Session

10-3-208 Campaign finance disclosure in municipal election.

- (1) Unless a municipality adopts by ordinance more stringent definitions, the following are defined terms for purposes of this section:
 - (a) "Agent of a candidate" means:
 - (i) a person acting on behalf of a candidate at the direction of the reporting entity;
 - (ii) a person employed by a candidate in the candidate's capacity as a candidate;
 - (iii) the personal campaign committee of a candidate;
 - (iv) a member of the personal campaign committee of a candidate in the member's capacity as a member of the personal campaign committee of the candidate; or
 - (v) a political consultant of a candidate.
 - (b)
 - (i) "Candidate" means a person who:
 - (A) files a declaration of candidacy for municipal office; or

- (B) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a municipal office.
- (ii) "Candidate" does not mean a person who files for the office of judge.
- (c)
 - (i) "Contribution" means any of the following when done for political purposes:
 - (A) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to a candidate;
 - (B) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the candidate;
 - (C) any transfer of funds from another reporting entity to the candidate;
 - (D) compensation paid by any person or reporting entity other than the candidate for personal services provided without charge to the candidate;
 - (E) a loan made by a candidate deposited to the candidate's own campaign; and
 - (F) an in-kind contribution.
 - (ii) "Contribution" does not include:
 - (A) services provided by an individual volunteering a portion or all of the individual's time on behalf of the candidate if the services are provided without compensation by the candidate or any other person;
 - (B) money lent to the candidate by a financial institution in the ordinary course of business; or
 - (C) goods or services provided for the benefit of a candidate at less than fair market value that are not authorized by or coordinated with the candidate.
- (d) "Coordinated with" means that goods or services provided for the benefit of a candidate are provided:
 - (i) with the candidate's prior knowledge, if the candidate does not object;
 - (ii) by agreement with the candidate;
 - (iii) in coordination with the candidate; or
 - (iv) using official logos, slogans, and similar elements belonging to a candidate.
- (e)
 - (i) "Expenditure" means any of the following made by a candidate or an agent of the candidate on behalf of the candidate:
 - (A) any disbursement from contributions, receipts, or from an account described in Subsection (3)(a)(i);
 - (B) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;
 - (C) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;
 - (D) compensation paid by a candidate for personal services rendered by a person without charge to a reporting entity;
 - (E) a transfer of funds between the candidate and a candidate's personal campaign committee as defined in Section 20A-11-101; or
 - (F) goods or services provided by a reporting entity to or for the benefit of the candidate for political purposes at less than fair market value.
 - (ii) "Expenditure" does not include:
 - (A) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a candidate; or

- (B) money lent to a candidate by a financial institution in the ordinary course of business.
 - (f) "In-kind contribution" means anything of value other than money, that is accepted by or coordinated with a candidate.
 - (g)
 - (i) "Political consultant" means a person who is paid by a candidate, or paid by another person on behalf of and with the knowledge of the candidate, to provide political advice to the candidate.
 - (ii) "Political consultant" includes a circumstance described in Subsection (1)(g)(i), where the person:
 - (A) has already been paid, with money or other consideration;
 - (B) expects to be paid in the future, with money or other consideration; or
 - (C) understands that the person may, in the discretion of the candidate or another person on behalf of and with the knowledge of the candidate, be paid in the future, with money or other consideration.
 - (h) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking a municipal office at any caucus, political convention, or election.
 - (i) "Reporting entity" means:
 - (i) a candidate;
 - (ii) a committee appointed by a candidate to act for the candidate;
 - (iii) a person who holds an elected municipal office;
 - (iv) a party committee as defined in Section 20A-11-101;
 - (v) a political action committee as defined in Section 20A-11-101;
 - (vi) a political issues committee as defined in Section 20A-11-101;
 - (vii) a corporation as defined in Section 20A-11-101; or
 - (viii) a labor organization as defined in Section 20A-11-1501.
 - (j) "Reporting limit" means for each calendar year:
 - (i) \$50; or
 - (ii) an amount lower than \$50 that is specified in an ordinance of the municipality.
- (2)
- (a) A municipality may adopt an ordinance establishing campaign finance disclosure requirements for a candidate that are more stringent than the requirements provided in Subsections (3) and (4).
 - (b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1).
 - (c) If a municipality fails to adopt a campaign finance disclosure ordinance described in Subsection (2)(a), a candidate shall comply with financial reporting requirements contained in Subsections (3) and (4).
- (3)
- (a) Each candidate:
 - (i) shall deposit a contribution in a separate campaign account in a financial institution; and
 - (ii) may not deposit or mingle any campaign contributions received into a personal or business account.
 - (b) Each candidate who is not eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement:
 - (i) no later than seven days before the day on which the municipal general election is held; and
 - (ii) no later than 30 days after the day on which the municipal general election is held.

- (c) Each candidate for municipal office who is eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement 30 days after the day on which the municipal primary election is held.
- (4) Each campaign finance statement under Subsection (3)(b) or (c) shall:
 - (a) except as provided in Subsection (4)(b):
 - (i) report all of the candidate's itemized and total:
 - (A) contributions, including in-kind and other nonmonetary contributions, received up to and including five days before the campaign finance statement is due, excluding a contribution previously reported; and
 - (B) expenditures made up to and including five days before the campaign finance statement is due, excluding an expenditure previously reported; and
 - (ii) identify:
 - (A) for each contribution that exceeds the reporting limit, the amount of the contribution and the name of the donor, if known;
 - (B) the aggregate total of all contributions that individually do not exceed the reporting limit; and
 - (C) for each expenditure, the amount of the expenditure and the name of the recipient of the expenditure; or
 - (b) report the total amount of all contributions and expenditures if the candidate receives \$500 or less in contributions and spends \$500 or less on the candidate's campaign.
 - (c) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds the reporting limit, and is from a donor whose name is unknown, a candidate shall disburse the amount of the contribution to:
 - (i) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or
 - (ii) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.
- (5)
 - (a) A municipality may, by ordinance:
 - (i) provide a reporting limit lower than \$50;
 - (ii) require greater disclosure of contributions or expenditures than is required in this section; and
 - (iii) impose additional penalties on candidates who fail to comply with the applicable requirements beyond those imposed by this section.
 - (b) A candidate is subject to the provisions of this section and not the provisions of an ordinance adopted by the municipality under Subsection (5)(a) if:
 - (i) the municipal ordinance establishes requirements or penalties that differ from those established in this section; and
 - (ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the ordinance as required in Subsection (6).
- (6) Each municipal clerk or recorder shall, at the time the candidate for municipal office files a declaration of candidacy, and again 14 days before each municipal general election, notify the candidate in writing of:
 - (a) the provisions of statute or municipal ordinance governing the disclosure of contributions and expenditures;
 - (b) the dates when the candidate's campaign finance statement is required to be filed; and

- (c) the penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement when required.
- (7) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the municipal clerk or recorder shall:
 - (a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and
 - (b) make the campaign finance statement filed by a candidate available for public inspection by:
 - (i)
 - (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and
 - (B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or
 - (ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.
- (8)
 - (a) If a candidate fails to file a campaign finance statement before the municipal general election by the deadline specified in Subsection (3)(b)(i), the municipal clerk or recorder shall inform the appropriate election official who:
 - (i) shall:
 - (A) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or
 - (B) if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and
 - (ii) may not count any votes for that candidate.
 - (b) Notwithstanding Subsection (8)(a), a candidate who files a campaign finance statement seven days before a municipal general election is not disqualified if:
 - (i) the statement details accurately and completely the information required under Subsection (4), except for inadvertent omissions or insignificant errors or inaccuracies; and
 - (ii) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.
- (9) A campaign finance statement required under this section is considered filed if it is received in the municipal clerk or recorder's office by 5 p.m. on the date that it is due.
- (10)
 - (a) A private party in interest may bring a civil action in district court to enforce the provisions of this section or an ordinance adopted under this section.
 - (b) In a civil action under Subsection (10)(a), the court may award costs and attorney fees to the prevailing party.

Amended by Chapter 21, 2015 General Session

Amended by Chapter 247, 2015 General Session

10-3-209 Personal use expenditure -- Authorized and prohibited uses of campaign funds -- Enforcement -- Penalties.

- (1) Unless a municipality adopts by ordinance more stringent definitions, the following are defined terms for the purposes of this section:

- (a) "Candidate" means a person who:
 - (i) files a declaration of candidacy for municipal office; or
 - (ii) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.
- (b) "Officeholder" means a person who is elected to and currently holds a municipal office.
- (c)
 - (i) "Personal use expenditure" means an expenditure that:
 - (A) is not excluded from the definition of personal use expenditure by Subsection (2) and primarily furthers a personal interest of a candidate or officeholder or a candidate's or officeholder's family, which interest is not connected with the performance of an activity as a candidate or an activity or duty of an officeholder; or
 - (B) would cause the candidate or officeholder to recognize the expenditure as taxable income under federal law.
 - (ii) "Personal use expenditure" includes:
 - (A) a mortgage, rent, utility, or vehicle payment;
 - (B) a household food item or supply;
 - (C) clothing, except for clothing bearing the candidate's name or campaign slogan or logo and that is used in the candidate's campaign;
 - (D) an admission to a sporting, artistic, or recreational event or other form of entertainment;
 - (E) dues, fees, or gratuities at a country club, health club, or recreational facility;
 - (F) a salary payment made to a candidate, officeholder, or a person who has not provided a bona fide service to a candidate or officeholder;
 - (G) a vacation;
 - (H) a vehicle expense;
 - (I) a meal expense;
 - (J) a travel expense;
 - (K) a payment of an administrative, civil, or criminal penalty;
 - (L) a satisfaction of a personal debt;
 - (M) a personal service, including the service of an attorney, accountant, physician, or other professional person;
 - (N) a membership fee for a professional or service organization; and
 - (O) a payment in excess of the fair market value of the item or service purchased.
- (2) As used in this section, "personal use expenditure" does not mean an expenditure made:
 - (a) for a political purpose;
 - (b) for candidacy for public office;
 - (c) to fulfill a duty or activity of an officeholder;
 - (d) for a donation to a registered political party;
 - (e) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;
 - (f) to return all or a portion of a contribution to a donor;
 - (g) for the following items, if made in connection with the candidacy for public office or an activity or duty of an officeholder:
 - (i)
 - (A) a mileage allowance at the rate established by the Division of Finance under Section 63A-3-107; or
 - (B) for motor fuel or special fuel, as defined in Section 59-13-102;

- (ii) a meal expense;
 - (iii) a travel expense, including an expense incurred for airfare or a rental vehicle;
 - (iv) a payment for a service provided by an attorney or accountant;
 - (v) a tuition payment or registration fee for participation in a meeting or conference;
 - (vi) a gift;
 - (vii) a payment for the following items in connection with an office space:
 - (A) rent;
 - (B) utilities;
 - (C) a supply; or
 - (D) furnishing;
 - (viii) a booth at a meeting or event; or
 - (ix) educational material;
 - (h) to purchase or mail informational material, a survey, or a greeting card;
 - (i) for a donation to a charitable organization, as defined by Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;
 - (j) to repay a loan a candidate makes from the candidate's personal account to the candidate's campaign account;
 - (k) to pay membership dues to a national organization whose primary purpose is to address general public policy;
 - (l) for admission to or sponsorship of an event, the primary purpose of which is to promote the social, educational, or economic well-being of the state or the candidate's or officeholder's community; or
 - (m) for one or more guests of an officeholder or candidate to attend an event, meeting, or conference described in this Subsection (2).
- (3)
- (a) A municipality may adopt an ordinance prohibiting a personal use expenditure by a candidate with requirements that are more stringent than the requirements provided in Subsection (4).
 - (b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1) or (2).
 - (c) If a municipality fails to adopt a personal use expenditure ordinance described in Subsection (3)(a), a candidate shall comply with the requirements contained in Subsection (4).
- (4) A candidate or an officeholder may not use money deposited into a campaign account for:
- (a) a personal use expenditure; or
 - (b) an expenditure prohibited by law.
- (5) A municipality may enforce this section by adopting an ordinance:
- (a) to provide for the evaluation of a campaign finance statement to identify a personal use expenditure; and
 - (b) to commence informal adjudicative proceedings if, after an evaluation described in Subsection (5)(a), there is probable cause to believe that a candidate or officeholder has made a personal use expenditure.
- (6) If, in accordance with the proceedings described in Subsection (5)(b) established in municipal ordinance, a municipality determines that a candidate or officeholder has made a personal use expenditure, the municipality:
- (a) may require the candidate or officeholder to:
 - (i) remit an administrative penalty of an amount equal to 50% of the personal use expenditure to the municipality; and

- (ii) deposit the amount of the personal use expenditure into the campaign account from which the personal use expenditure was disbursed; and
- (b) shall deposit the money received under Subsection (6)(a)(i) into the municipal general fund.

Enacted by Chapter 247, 2015 General Session

Part 3

Membership on Governing Body, Vacancies, and Power to Vote

10-3-301 Notice -- Eligibility and residency requirements for elected municipal office -- Mayor and recorder limitations.

- (1)
 - (a) On or before February 1 in a year in which there is a municipal general election, the municipal clerk shall publish a notice that identifies:
 - (i) the municipal offices to be voted on in the municipal general election; and
 - (ii) the dates for filing a declaration of candidacy for the offices identified under Subsection (1)(a)(i).
 - (b) The municipal clerk shall publish the notice described in Subsection (1)(a):
 - (i) on the Utah Public Notice Website established by Section 63F-1-701; and
 - (ii) in at least one of the following ways:
 - (A) at the principal office of the municipality;
 - (B) in a newspaper of general circulation within the municipality at least once a week for two successive weeks in accordance with Section 45-1-101;
 - (C) in a newsletter produced by the municipality;
 - (D) on a website operated by the municipality; or
 - (E) with a utility enterprise fund customer's bill.
- (2)
 - (a) A person filing a declaration of candidacy for a municipal office shall meet the requirements of Section 20A-9-203.
 - (b)
 - (i) Except as provided in Subsection (2)(b)(ii), the city recorder or town clerk of each municipality shall maintain office hours 8 a.m. to 5 p.m. on the dates described in Subsections 20A-9-203(2)(a)(i) and (b)(i) unless the date occurs on a:
 - (A) Saturday or Sunday; or
 - (B) state holiday as listed in Section 63G-1-301.
 - (ii) If on a regular basis a city recorder or town clerk maintains an office schedule that is less than 40 hours per week, the city recorder or town clerk may comply with Subsection (2)(b)(i) without maintaining office hours by:
 - (A) posting the recorder's or clerk's contact information, including a phone number and email address, on the recorder's or clerk's office door, the main door to the municipal offices, and, if available, on the municipal website; and
 - (B) being available at that contact information from 8 a.m. to 5 p.m. on the dates described in Subsection (2)(b)(i).
- (3) Any person elected to municipal office shall be a registered voter in the municipality in which the person was elected.
- (4)

- (a) Each elected officer of a municipality shall maintain residency within the boundaries of the municipality during the officer's term of office.
- (b) If an elected officer of a municipality establishes a principal place of residence as provided in Section 20A-2-105 outside the municipality during the officer's term of office, the office is automatically vacant.
- (5) If an elected municipal officer is absent from the municipality any time during the officer's term of office for a continuous period of more than 60 days without the consent of the municipal legislative body, the municipal office is automatically vacant.
- (6)
 - (a) A mayor of a municipality may not also serve as the municipal recorder or treasurer.
 - (b) The recorder of a municipality may not also serve as the municipal treasurer.

Amended by Chapter 38, 2014 General Session

10-3-302 Mayoral or council vacancy of a municipality.

Mayoral or council vacancies shall be filled as provided in Section 20A-1-510.

Repealed and Re-enacted by Chapter 1, 1993 General Session

Part 5

Meetings, Procedure, and Conduct - Voting

10-3-502 Regular and special council meetings.

- (1) The council of each municipality shall:
 - (a) by ordinance prescribe the time and place for holding its regular meeting, subject to Subsection (1)(b); and
 - (b) hold a regular meeting at least once each month.
- (2)
 - (a) The mayor of a municipality or two council members may order the convening of a special meeting of the council.
 - (b) Each order convening a special meeting of the council shall:
 - (i) be entered in the minutes of the council; and
 - (ii) provide at least three hours' notice of the special meeting.
 - (c) The municipal recorder or clerk shall serve notice of the special meeting on each council member who did not sign the order by delivering the notice personally or by leaving it at the member's usual place of abode.
 - (d) The personal appearance by a council member at a special meeting of the council constitutes a waiver of the notice required under Subsection (2)(c).

Amended by Chapter 19, 2008 General Session

10-3-504 Quorum defined.

The number of council members necessary to constitute a quorum is:

- (1) in a municipality with a seven-member council, four;
- (2) in a municipality with a five-member council, three; and

- (3) in a municipality operating under a six-member council form of government, three, excluding the mayor.

Amended by Chapter 19, 2008 General Session

10-3-505 Compelling attendance at meetings of legislative body.

The legislative body of a municipality may compel the attendance of its own members at its meetings and provide penalties it considers necessary for the failure to comply with an exercise of the authority to compel attendance.

Amended by Chapter 237, 2003 General Session

10-3-506 How the vote is taken.

A roll call vote shall be taken and recorded for all ordinances, resolutions, and any action which would create a liability against the municipality and in any other case at the request of any member of the governing body by a "yes" or a "no" vote and shall be recorded. Every resolution or ordinance shall be in writing before the vote is taken.

Enacted by Chapter 48, 1977 General Session

10-3-507 Minimum vote required.

- (1) The minimum number of yes votes required to pass any ordinance or resolution, or to take any action by the council, unless otherwise prescribed by law, is a majority of the voting members of the council, regardless of absence or vacancy.
- (2)
 - (a) Any ordinance, resolution, or motion of the council having fewer favorable votes than required in this section is defeated and invalid.
 - (b) Notwithstanding Subsection (2)(a), a council meeting may be adjourned to a specific time by a majority vote of the council even though the majority vote is less than that required in this section.
- (3) If a vacancy exists in one or more council seats, a majority of the council members presently occupying council seats, regardless of number, may vote to fill the vacancy as provided under Section 20A-1-510.

Amended by Chapter 338, 2014 General Session

10-3-508 Reconsideration.

Any action taken by the governing body may not be reconsidered or rescinded at any special meeting unless the number of members of the governing body present at the special meeting is equal to or greater than the number of members present at the meeting when the action was approved.

Amended by Chapter 378, 2010 General Session

Part 6
Public Meetings, Executive Sessions, Records and Publication, Procedure

10-3-601 Business of governing body conducted only in open meeting.

All meetings of the governing body of each municipality shall be held in compliance with the provisions of Title 52, Chapter 4, Open and Public Meetings Act.

Amended by Chapter 14, 2006 General Session

10-3-603 Public records.

The governing body of each municipality shall keep a journal of its proceedings. The books, records, accounts and documents of each municipality shall be kept at the office of the recorder and approved copies shall be open and available to the public during regular business hours for examination and copying. The governing body may by resolution establish reasonable charges for providing copies of its public records to individuals, except when by law the municipality must provide the records without cost to the public.

Enacted by Chapter 48, 1977 General Session

10-3-604 Annual examination of municipal finances -- Publication of results.

At the end of each fiscal year, the governing body of each city of the first and second class shall cause a full and complete examination of all books and accounts of the city to be made by certified public accountants, and shall publish the results of the examination and a detailed and itemized statement of all receipts and disbursements of the city in a summary of their proceedings and expenses during the fiscal year. The city shall then provide printed copies to the newspapers of the city and to the city recorder who shall provide one copy of it to any person on request.

Amended by Chapter 49, 1981 General Session

10-3-605 Penalty.

Any person who shall violate any of the provisions of Section 10-3-603 or 10-3-604 without just cause shall be guilty of a class B misdemeanor.

Amended by Chapter 28, 1979 General Session

10-3-606 Rules of order and procedure.

(1) As used in this section, "rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

- (a) parliamentary order and procedure;
- (b) ethical behavior; and
- (c) civil discourse.

(2)

(a) Subject to Subsection (2)(b), a municipal legislative body shall:

- (i) adopt rules of order and procedure to govern a public meeting of the legislative body;
- (ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (2)(a)(i); and
- (iii) make the rules of order and procedure described in Subsection (2)(a)(i) available to the public:
 - (A) at each meeting of the municipal legislative body; and
 - (B) on the municipality's public website, if available.

- (b) Subsection (2)(a) does not affect a municipal legislative body's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

Repealed and Re-enacted by Chapter 107, 2011 General Session

10-3-607 Expulsion of members prohibited -- Exception for disorderly conduct.

- (1) Except as provided in Subsection (2), the governing body may not expel a member of the governing body from an open public meeting or prohibit the member from attending an open public meeting.
- (2) Except as provided in Subsection (3), following a two-thirds vote of the members of the governing body, the governing body may fine or expel a member of the governing body for:
 - (a) disorderly conduct at the open public meeting;
 - (b) a member's direct or indirect financial conflict of interest regarding an issue discussed at or action proposed to be taken at the open public meeting; or
 - (c) a commission of a crime during the open public meeting.
- (3) A governing body may adopt rules or ordinances that expand the reasons or establish more restrictive procedures for the expulsion of a member from a public meeting.

Repealed and Re-enacted by Chapter 196, 2015 General Session

10-3-608 Rules of conduct for the public.

The governing body on a two-thirds vote may expel any person who is disorderly during the meeting of the governing body. This section or any action taken by the governing body pursuant hereto does not preclude prosecution under any other provision of law.

Amended by Chapter 378, 2010 General Session

10-3-609 Action on committee reports.

Final action on any report of any committee appointed by the governing body shall be deferred to the next regular meeting of the governing body on the request of any two members, except that the council in a city of the third, fourth, or fifth class or a town may call a special meeting to consider final action.

Amended by Chapter 292, 2003 General Session

10-3-610 Requiring attendance of witnesses, production of evidence.

The governing body of each municipality may require the attendance of any person to give testimony or produce records, documents or things for inspection, copying or examination necessary or useful for the governance of the municipality. The governing body may by ordinance establish its own procedures for issuing subpoenas to require attendance and production under this section or it may issue subpoenas in its own name in the same manner as is provided in the Utah Rules of Civil Procedure.

Enacted by Chapter 48, 1977 General Session

Part 7

Municipal Ordinances, Resolutions, and Procedure

10-3-701 Legislative power exercised by ordinance.

Except as otherwise specifically provided, the governing body of each municipality shall exercise its legislative powers through ordinances.

Enacted by Chapter 48, 1977 General Session

10-3-702 Extent of power exercised by ordinance.

The governing body may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by this act or any other provision of law. An officer of the municipality may not be convicted of a criminal offense where he relied on or enforced an ordinance he reasonably believed to be a valid ordinance. It shall be a defense to any action for punitive damages that the official acted in good faith in enforcing an ordinance or that he enforced an ordinance on advice of legal counsel.

Amended by Chapter 378, 2010 General Session

10-3-703 Criminal penalties for violation of ordinance -- Civil penalties prohibited -- Exceptions.

- (1) The governing body of each municipality may impose a criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301 or by a term of imprisonment up to six months, or by both the fine and term of imprisonment.
- (2)
 - (a) Except as provided in Subsection (2)(b), the governing body may prescribe a civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301.
 - (b) A municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance.

Amended by Chapter 149, 2014 General Session

10-3-703.7 Administrative proceedings.

- (1) A municipality may adopt an ordinance establishing an administrative proceeding to review and decide a violation of a civil municipal ordinance.
- (2) An ordinance adopted in accordance with Subsection (1) shall provide due process for parties participating in the administrative proceeding.

Repealed and Re-enacted by Chapter 175, 2012 General Session

10-3-704 Form of ordinance.

Any ordinance passed by the governing body, after the effective date of this act, shall contain and be in substantially the following order and form:

- (1) a number;
- (2) a title which indicates the nature of the subject matter of the ordinance;
- (3) a preamble which states the need or reason for the ordinance;

- (4) an ordaining clause which states "Be it ordained by the ____ (name of the governing body and municipality):";
- (5) the body or subject of the ordinance;
- (6) when applicable, a statement indicating the penalty for violation of the ordinance or a reference that the punishment is covered by an ordinance which prescribes the fines and terms of imprisonment for the violation of a municipal ordinance; or, the penalty may establish a classification of penalties and refer to such ordinance in which the penalty for such violation is established;
- (7) a statement indicating the effective date of the ordinance or the date when the ordinance shall become effective after publication or posting as required by this chapter;
- (8) a line for the signature of the mayor or acting mayor to sign the ordinance;
- (9) a place for the municipal recorder to attest the ordinance and fix the seal of the municipality; and
- (10) in municipalities where the mayor may disapprove an ordinance passed by the legislative body, the ordinance shall show, that it was passed with the mayor's approval or that if the mayor disapproved the ordinance, that it was passed over his disapproval. If the mayor neither approves, or disapproves an ordinance, the ordinance shall show that it became effective without the approval or disapproval of the mayor.

Amended by Chapter 378, 2010 General Session

10-3-705 Requirements as to form -- Effective date.

Ordinances passed or enacted by the governing body shall be signed by the mayor, or if he is absent, by the mayor pro tempore, or by a quorum of the governing body, and shall be recorded before taking effect. No ordinance shall be void or unlawful by reason of its failure to conform to the provisions of Subsection 10-3-704(1), (2), (3) or (4). Ordinances which do not have an effective date shall become effective 20 days after publication or posting, or 30 days after final passage by the governing body, whichever is sooner.

Amended by Chapter 38, 1979 General Session

10-3-706 Revision of ordinances.

The governing body by resolution may authorize and direct the mayor to appoint, with the advice and consent of the governing body, one or more persons to prepare and submit to the governing body a compilation, revision or codification of municipal ordinances. The compensation for the service shall be fixed by resolution of the governing body and paid out of the municipal treasury.

Enacted by Chapter 48, 1977 General Session

10-3-707 Power to codify ordinances.

Any municipality is hereby empowered to revise, codify and compile from time to time and to publish in book, pamphlet or looseleaf form all ordinances of the municipality of a general and permanent character and to make such changes, alterations, modifications, additions, and substitutions therein as it may deem best to the end that a complete simplified code of the ordinances then enforced shall be presented, but with errors, inconsistencies, repetitions, and ambiguities therein eliminated.

Enacted by Chapter 48, 1977 General Session

10-3-708 Arrangement of ordinances.

The ordinances in the revision, codification and compilation shall be arranged in such order as the governing body may decide and may exclude the titles, enacting clauses, signatures of a mayor or mayor pro tempore of the governing board, attestations, and other formal parts, except the attestation of the recorder.

Enacted by Chapter 48, 1977 General Session

10-3-709 Repeal of conflicting provisions -- Title.

Such revision shall be by one ordinance embracing all ordinances of a general and permanent character preserved as changed or added to and perfected by the revision, codification and compilation and shall be a repeal of all ordinances in conflict with the revision, codification and compilation, but all ordinances then enforced shall continue in force after the revision, codification and compilation for the purpose of all rights acquired, fines, penalties and forfeitures and liabilities incurred and actions therefor. The only title necessary for such ordinance shall be "an ordinance revising, codifying and compiling the general ordinances of the city or town of ____ (inserting the name of the municipality)."

Enacted by Chapter 48, 1977 General Session

10-3-710 Publication in book, pamphlet or looseleaf form -- State statutes.

Ordinances revised, codified, compiled and published in book, pamphlet or looseleaf form by authority of the governing body need not be printed or published in any other manner, except that the ordinance adopting the revision, codification or compilation shall be published or posted in the manner provided by law. Provisions of state law may be adopted by reference. Any changes necessary to conform those state laws with municipal ordinance shall be noted.

Enacted by Chapter 48, 1977 General Session

10-3-711 Publication and posting of ordinances.

- (1) Before an ordinance may take effect, the legislative body of each municipality adopting an ordinance, except an ordinance enacted under Section 10-3-706, 10-3-707, 10-3-708, 10-3-709, or 10-3-710, shall:
 - (a) deposit a copy of the ordinance in the office of the municipal recorder; and
 - (b)
 - (i) publish a short summary of the ordinance at least once:
 - (A) in a newspaper published within the municipality; or
 - (B) if there is no newspaper published within the municipality, in a newspaper of general circulation within the municipality; or
 - (ii) post a complete copy of the ordinance:
 - (A) for a city of the first class, in nine public places within the city; or
 - (B) for any other municipality, in three public places within the municipality.
- (2)
 - (a) Any ordinance, code, or book, other than the state code, relating to building or safety standards, municipal functions, administration, control, or regulations, may be adopted and shall take effect without further publication or posting, if reference is made to the code or book

and at least one copy has been filed for use and examination by the public in the office of the recorder or clerk of the city or town prior to the adoption of the ordinance by the governing body.

- (b) Any state law relating to building or safety standards, municipal functions, administration, control, or regulations, may be adopted and shall take effect without further publication or posting if reference is made to the state code.
- (c) The ordinance adopting the code or book shall be published in the manner provided in this section.

Amended by Chapter 202, 2004 General Session

10-3-712 Effective date.

Ordinances shall become effective 20 days after publication or posting or 30 days after final passage by the governing body, whichever is closer to the date of final passage, but ordinances may become effective at an earlier or later date after publication or posting if so provided in the ordinance.

Amended by Chapter 42, 1983 General Session

10-3-713 Recording, numbering, and certification of passage.

The municipal recorder shall record, in a book used exclusively for that purpose, all ordinances passed by the governing body. The recorder shall give each ordinance a number, if the governing body has not already so done. Immediately following each ordinance, or codification of ordinances, the recorder shall make or cause to be made a certificate stating the date of passage and of the date of publication or posting, as required. The record and memorandum, or a certified copy thereof, shall be prima facie evidence of the contents, passage, and publication or posting of the ordinance or codification.

Enacted by Chapter 48, 1977 General Session

10-3-714 Contents, dates, publication proved under seal.

The contents of all municipal ordinances, the dates of passage, and the date of publication or posting may be proved by the certification of the municipal recorder under the seal of the municipality.

Amended by Chapter 4, 1993 General Session

10-3-715 Municipal ordinances received in evidence.

Whenever municipal ordinances are printed in book, pamphlet or looseleaf form and purport to be published by the authority of the governing body, the book, pamphlet or looseleaf shall be prima facie evidence of the contents, passage, and legal publication of such ordinances, as of the dates mentioned in the book, pamphlet, or looseleaf in all courts and administrative proceedings.

Enacted by Chapter 48, 1977 General Session

10-3-716 Fines and forfeitures -- Disposition.

All fines, penalties, and forfeitures for the violation of any ordinance, when collected, shall be paid in accordance with Section 51-4-2. A violation of this section constitutes a class C

misdemeanor. The retention or use of any fine, penalty, or forfeiture by any person for personal use or benefit constitutes a class B misdemeanor, except that if the amount or amounts exceed \$1,000 the offense is a class A misdemeanor as defined in the Utah Criminal Code.

Amended by Chapter 55, 2006 General Session

10-3-717 Purpose of resolutions.

Unless otherwise required by law, the governing body may:

- (1) exercise all administrative powers by resolution including:
 - (a) establishing water and sewer rates;
 - (b) establishing charges for garbage collection and fees charged for municipal services;
 - (c) establishing personnel policies and guidelines; and
 - (d) regulating the use and operation of municipal property; and
- (2) not impose a punishment, fine, or forfeiture by resolution.

Amended by Chapter 258, 2015 General Session

10-3-718 Form of resolution.

Any resolution passed by the governing body of each municipality shall be in a form and contain sections substantially similar to that prescribed for ordinances.

Enacted by Chapter 48, 1977 General Session

10-3-719 Resolutions need no publication effective date.

Resolutions may become effective without publication or posting and may take effect on passage or at a later date as the governing body may determine, but resolutions may not become effective more than three months from the date of passage.

Enacted by Chapter 48, 1977 General Session

Part 8

Municipal Administration

10-3-801 Administrative powers in cities of the first class.

The executive and administrative powers, authority and duties in cities of the first class shall be divided into and among five departments as follows:

- (1) Department of Public Affairs and Finance;
- (2) Department of Water Supply and Waterworks;
- (3) Department of Public Safety;
- (4) Department of Streets and Public Improvements; and
- (5) Department of Parks and Public Property.

Enacted by Chapter 48, 1977 General Session

10-3-803 Officers limited to one office -- Exceptions.

In cities of the first class, the mayor, commissioners, recorder and treasurer shall administer only one office under the city government, except that the offices of city recorder and auditor may be held by one person.

Enacted by Chapter 48, 1977 General Session

10-3-805 Administrative powers in cities of the second class.

The administrative powers, authority and duties in cities of the second class shall be divided into five departments which shall be:

- (1) Department of Public Affairs and Finances.
- (2) Department of Water and Waterworks.
- (3) Department of Public Safety.
- (4) Department of Streets and Public Improvements.
- (5) Department of Parks and Public Property.

Enacted by Chapter 48, 1977 General Session

10-3-818 Salaries in municipalities.

- (1) The elective and statutory officers of municipalities shall receive such compensation for their services as the governing body may fix by ordinance adopting compensation or compensation schedules enacted after public hearing.
- (2) Upon its own motion the governing body may review or consider the compensation of any officer or officers of the municipality or a salary schedule applicable to any officer or officers of the city for the purpose of determining whether or not it should be adopted, changed, or amended. In the event that the governing body decides that the compensation or compensation schedules should be adopted, changed, or amended, it shall set a time and place for a public hearing at which all interested persons shall be given an opportunity to be heard.
- (3)
 - (a) Notice of the time, place, and purpose of the meeting shall be published at least seven days before the meeting by publication:
 - (i) at least once in a newspaper published in the county within which the municipality is situated and generally circulated in the municipality; and
 - (ii) on the Utah Public Notice Website created in Section 63F-1-701.
 - (b) If there is not a newspaper as described in Subsection (3)(a)(i), then notice shall be given by posting this notice in three public places in the municipality.
- (4) After the conclusion of the public hearing, the governing body may enact an ordinance fixing, changing, or amending the compensation of any elective or appointive officer of the municipality or adopting a compensation schedule applicable to any officer or officers.
- (5) Any ordinance enacted before Laws of Utah 1977, Chapter 48, by a municipality establishing a salary or compensation schedule for its elective or appointive officers and any salary fixed prior to Laws of Utah 1977, Chapter 48, shall remain effective until the municipality has enacted an ordinance pursuant to the provisions of this chapter.
- (6) The compensation of all municipal officers shall be paid at least monthly out of the municipal treasury provided that municipalities having 1,000 or fewer population may by ordinance provide for the payment of its statutory officers less frequently. None of the provisions of this chapter shall be considered as limiting or restricting the authority to any municipality that

has adopted or does adopt a charter pursuant to Utah Constitution, Article XI, Section 5, to determine the salaries of its elective and appointive officers or employees.

Amended by Chapter 90, 2010 General Session

10-3-819 Bonds required.

The elected officers of each municipality and the treasurer in cities of the first and second class before taking office shall execute a bond with good and sufficient sureties, payable to the municipality in such amounts as are herein provided, conditioned for the faithful performance of the duties of the respective officers and the payment of all money received by such officer according to law and the ordinances of the municipality. All other officers of any municipality may, by resolution or ordinance, be required to furnish a personal bond with good and sufficient sureties or corporate surety bond payable to the municipality in such penal sum as the resolution or ordinance may establish, conditioned for the faithful performance of the duties of their office and the payment of all money received by such officers according to law and the ordinances of the municipality, or such officers may be included within public employee blanket bonds at such amounts as may be determined by the governing body.

Amended by Chapter 92, 1987 General Session

10-3-820 Bonds of officers in cities of the first and second class.

In cities of the first and second class, the mayor and each council member shall give a penal bond, with approved corporate surety, in the amount of not less than \$10,000 and the auditor shall give a penal bond with approved corporate surety in the sum of not less than \$20,000 conditioned for the faithful performance of the duties of their offices and payment of all money received by them according to law and the ordinances of the city.

Amended by Chapter 19, 2008 General Session

10-3-821 Bond of treasurers.

The municipal treasurer's bond, or the bond of any person who acts as municipal treasurer, may be set by resolution or ordinance in any amount, not less than that established by the state money management council.

Enacted by Chapter 48, 1977 General Session

10-3-822 Approval of bonds.

The bonds of the commissioners and of the councilmen shall be approved by the mayor and the bond of the mayor shall be approved by the commission or council at the first meeting of the governing body in January following a municipal election.

Enacted by Chapter 48, 1977 General Session

10-3-823 Premium paid by municipality.

The premium charged by a corporate surety for any bond required by this part shall be paid by the municipality.

Enacted by Chapter 48, 1977 General Session

10-3-824 Bonds of first officers after incorporation.

Whenever the inhabitants of any municipality incorporate under this act, the officers first elected or appointed, except the treasurer, shall give bonds in the penal sum of not less than \$500. The bonds required in this section shall remain in force until the passage of ordinances or resolutions by the governing body of such municipality providing for the bonds required of its officers under this act. The bond of the municipal treasurer shall be in a penal sum of not less than \$500 and may be established by an ordinance or resolution by the governing body, except that the bond of the treasurer shall be set in an amount provided by the rules and regulations of the state money management council if it has been established by the state money management council.

Enacted by Chapter 48, 1977 General Session

10-3-825 Additional bonds.

The governing body of any municipality may at any time require further and additional bonds of any or all officers elected or appointed. All bonds given by the officers of any municipality, except as otherwise provided by law, shall be filed with the recorder, except that the bond of the recorder shall be filed with the treasurer.

Enacted by Chapter 48, 1977 General Session

10-3-826 Official neglect and misconduct class A misdemeanor -- Removal from office.

In case any municipal officer shall at any time wilfully omit to perform any duty, or wilfully and corruptly be guilty of oppression, malconduct, misfeasance, or malfeasance in office, the person is guilty of a class A misdemeanor, shall be removed from office, and is not eligible for any municipal office thereafter.

Amended by Chapter 178, 1986 General Session

10-3-827 Oaths.

All officers of any municipality, whether elected or appointed, before entering on the duties of their respective offices shall take, subscribe and file the constitutional oath of office.

Enacted by Chapter 48, 1977 General Session

10-3-828 Oath -- Filing.

The oath of office required under this part shall be administered by any judge, notary public, or by the recorder of the municipality. Elected officials shall take their oath of office at 12:00 noon on the first Monday in January following their election or as soon thereafter as is practical. Appointed officers shall take their oath at any time before entering on their duties. All oaths of office shall be filed with the recorder of the respective municipality.

Amended by Chapter 59, 1990 General Session

10-3-829 Acts of officials not voided.

No official act of any municipal officer shall be invalid for the reason that he failed to take the oath of office.

Enacted by Chapter 48, 1977 General Session

Part 9

Appointed Officials and Their Duties

10-3-902 City engineer required to be licensed.

Each person appointed as city engineer shall be a registered professional engineer under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

Amended by Chapter 19, 2008 General Session

10-3-903 City engineer -- Custodian of records of public improvements.

The city engineer's office in cities of the first and the second class shall be an office of record for all maps, plans, plats, profiles, drawings, final estimates, specifications and contracts which in any way relate to the public improvements and engineering affairs of the city. The city engineer shall be custodian of all drawings and documents above mentioned.

Enacted by Chapter 48, 1977 General Session

10-3-904 Books and supplies -- Recording, filing and inspection.

The city engineer's office shall be supplied with all necessary books, cases and supplies for recording and filing as required. The city engineer shall record and file all drawings and documents pertaining to public lands and improvements. Those made in his office shall be placed on record as soon as completed and shall then be open for public inspections, and any person copying the same or taking notes therefrom may do so in pencil only. He shall keep the records and files in good condition and turn the same over to his successor in office. He shall allow no alteration, mutilation or changes to be made in any matter of record, and shall be held strictly accountable for the same.

Enacted by Chapter 48, 1977 General Session

10-3-905 Fees to be paid in advance.

The city engineer may not record any drawings or instruments, or file any papers or notices, or furnish any copies, or render any service connected with his office, until the fees for the same are paid or tendered as prescribed by law or ordinance.

Amended by Chapter 378, 2010 General Session

10-3-906 Seal.

The city engineer shall be provided with a seal by the city for his use, containing the words "____ City, Utah, Engineering Department." The seal shall be affixed to every certification approval.

Enacted by Chapter 48, 1977 General Session

10-3-907 Recordation not to interfere with other recordation.

The recording or filing of any drawing or instrument in the city engineer's office may not interfere or conflict in any way with the recording or filing of the same in other offices of record.

Amended by Chapter 378, 2010 General Session

10-3-908 Noncompliance a misdemeanor.

Any city engineer who fails to comply with Sections 10-3-903 through 10-3-907 is guilty of a misdemeanor.

Enacted by Chapter 48, 1977 General Session

10-3-909 Police and fire departments in cities of the first and second class.

Each city of the first or the second class shall provide police services and may create, support, maintain, and control a fire department in the city.

Amended by Chapter 79, 1998 General Session

10-3-910 Heads of departments and subordinate officers.

The administration of the police and fire departments shall consist of a chief of the department and such officers, members, employees and agents as the board of commissioners may by ordinance prescribe, and the board of commissioners shall appoint the heads of such departments.

Enacted by Chapter 48, 1977 General Session

10-3-912 Chief of department may suspend subordinates.

- (1) The chief of each department may at any time suspend any subordinate officers, members, employees, or agents employed therein when in his judgment the good of the service demands it, and during the time of suspension, the person suspended is not entitled to any salary or compensation whatsoever.
- (2) Any suspension of employees in the classified civil service which exceeds three days or 24 working hours is subject to an appeal to the civil service commission as provided in Section 10-3-1012.

Amended by Chapter 378, 2010 General Session

10-3-913 Authority of chief of police.

- (1) The chief of police has the same authority as the sheriff within the boundaries of the municipality of appointment. The chief has authority to:
 - (a) suppress riots, disturbances, and breaches of the peace;
 - (b) apprehend all persons violating state laws or city ordinances;
 - (c) diligently discharge his duties and enforce all ordinances of the city to preserve the peace, good order, and protection of the rights and property of all persons; and
 - (d) attend the municipal justice court located within the city when required, provide security for the court, and obey its orders and directions.
- (2) This section is not a limitation of a police chief's statewide authority as otherwise provided by law.

- (3) The chief of police shall, on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender.

Amended by Chapter 219, 2002 General Session

10-3-914 Police officers -- Authority.

- (1) Within the boundaries of the municipality, police officers have the same authority as deputy sheriffs, including at all times the authority to preserve the public peace, prevent crime, detect and arrest offenders, suppress riots, protect persons and property, remove nuisances existing in the public streets, roads, and highways, enforce every law relating to the suppression of offenses, and perform all duties required of them by ordinance or resolution.
- (2) This section is not a limitation of a police officer's statewide authority as otherwise provided by law.

Amended by Chapter 44, 1990 General Session

10-3-915 Rights to arrest without warrant.

The members of the police force shall have the power and authority, without process, to arrest and take into custody any person who shall commit or threaten or attempt to commit in the presence of the officer, or within his view, any breach of the peace, or any offense directly prohibited by the laws of this state or by ordinance.

Enacted by Chapter 48, 1977 General Session

10-3-916 Appointment of recorder and treasurer in a city of third, fourth, or fifth class or a town -- Vacancies in office.

- (1) In each city of the third, fourth, or fifth class and in each town, on or before the first Monday in February following a municipal election, the mayor, with the advice and consent of the city council, shall appoint a qualified person to each of the offices of city recorder and treasurer.
- (2) The city recorder is ex officio the city auditor and shall perform the duties of that office.
- (3) The mayor, with the advice and consent of the council, may also appoint and fill vacancies in all offices provided for by law or ordinance.
- (4) All appointed officers shall continue in office until their successors are appointed and qualified.

Amended by Chapter 292, 2003 General Session

10-3-917 Engineer in a city of the third, fourth, or fifth class or town.

The governing body of a city of the third, fourth, or fifth class or a town may by ordinance establish the office of municipal engineer and prescribe the duties and obligations for that office which are consistent with the duties and obligations of the city engineer in cities of the first and second class. If a city of the third, fourth, or fifth class or town uses the engineer employed by the county in which the municipality is located, the municipality may, by ordinance prescribe for its municipal engineer either the duties of a municipal engineer or, if different, the duties of the county engineer, or a combination of duties.

Amended by Chapter 292, 2003 General Session

10-3-918 Chief of police or marshal in a city of the third, fourth, or fifth class or town.

The chief of police or marshal in each city of the third, fourth, or fifth class or town:

- (1) shall:
 - (a) exercise and perform the duties that are prescribed by the legislative body;
 - (b) be under the direction, control, and supervision of the person or body that appointed the chief or marshal; and
 - (c) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender; and
- (2) may, with the consent of the person or body that appointed the chief or marshal, appoint assistants to the chief of police or marshal.

Amended by Chapter 292, 2003 General Session

10-3-919 Powers, duties, and obligations of police chief, marshal, and their assistants in a city of the third, fourth, or fifth class or town.

The chief of police, marshals, and their assistants in a city of the third, fourth, or fifth class or town shall have all of the powers, rights, and duties respectively conferred on such officers in Sections 10-3-913 through 10-3-915.

Amended by Chapter 292, 2003 General Session

10-3-920 Bail commissioner -- Powers and duties.

- (1) With the advice and consent of the city council and the board of commissioners in other cities, the mayor of a city of the third, fourth, or fifth class may appoint from among the officers and members of the police department of the city one or more discreet persons as a bail commissioner.
- (2) A bail commissioner shall have authority to fix and receive bail for a person arrested within the corporate limits of the city in accordance with the uniform bail schedule adopted by the Judicial Council or a reasonable bail for city ordinances not contained in the schedule for:
 - (a) misdemeanors under the laws of the state; or
 - (b) violation of the city ordinances.
- (3) A person who has been ordered by a bail commissioner to give bail may deposit with the bail commissioner the amount:
 - (a) in money, by cash, certified or cashier's check, personal check with check guarantee card, money order, or credit card, if the bail commissioner has chosen to establish any of those options; or
 - (b) by a bond issued by a licensed bail bond surety.
- (4) Any money or bond collected by a bail commissioner shall be delivered to the appropriate court within three days of receipt of the money or bond.
- (5) The court may review the amount of bail ordered by a bail commissioner and modify the amount of bail required for good cause.

Amended by Chapter 99, 2015 General Session

10-3-921 Fines -- Collection by bail commissioner -- Disposition.

- (1) In addition to the duty of fixing bail, a bail commissioner shall have power to collect and receipt money tendered in payment of the fine of a person serving sentence in default of the payment of such fine, when the court is closed.
- (2) Money collected by a bail commissioner shall be delivered to the court that issued the commitment order within three days of receipt of the money.

Amended by Chapter 283, 1990 General Session

10-3-922 Term of bail commissioners -- Salary -- Bond and oath.

- (1) A bail commissioner appointed under this part shall:
 - (a) serve at the pleasure of the governing body or mayor that appoints him; and
 - (b) receive no compensation as a bail commissioner.
- (2) Before beginning his duties as a bail commissioner, he shall:
 - (a) take and subscribe an oath to faithfully and impartially discharge the duties of his office;
 - (b) give a \$2,500 bond to the city wherein he is appointed, with two good and sufficient individual sureties or with a single corporate surety, that is approved by the governing body or mayor appointing him for the faithful performance of his duties as a bail commissioner; and
 - (c) account for and turn over to the clerk of the appropriate court within three days receipt of all money, bonds, property, and records coming into his hands as a bail commissioner.
- (3) At the expiration of his term of office, the bail commissioner shall surrender and turn over all funds, bonds, property, papers and records then in his hands pertaining to his office.
- (4) Suit upon any bond issued under this section may be brought by any county, city, or person injured as a result of a bail commissioner's action.

Amended by Chapter 283, 1990 General Session

10-3-928 Attorney duties -- Deputy public prosecutor.

In cities with a city attorney, the city attorney:

- (1) may prosecute violations of city ordinances;
- (2) may prosecute, under state law, infractions and misdemeanors occurring within the boundaries of the municipality;
- (3) has the same powers in respect to violations as are exercised by a county attorney or district attorney, except that a city attorney's authority to grant immunity shall be limited to:
 - (a) granting transactional immunity for violations of city ordinances; and
 - (b) granting transactional immunity under state law for infractions and misdemeanors occurring within the boundaries of the municipality;
- (4) shall represent the interests of the state or the municipality in the appeal of any matter prosecuted in any trial court by the city attorney;
- (5) may cooperate with the Office of the Attorney General during investigations, including those described in Subsection 67-5-18(3)(f); and
- (6) may designate a city attorney from another municipality or a public prosecutor to prosecute a matter, in the court having jurisdiction over the matter, if the city attorney has a conflict of interest regarding the matter being prosecuted.

Amended by Chapter 75, 2011 General Session

Part 10

Civil Service Commission

10-3-1001 Subordinates in police, health, and fire departments to be appointed from list.

Subject to the rules and regulations of the civil service commission, the head of the police and fire departments of each first and second class city that establishes a civil service commission and the health officer in each first class city that establishes a civil service commission shall, from the classified civil service list furnished by the civil service commission and by and with the advice and consent of the city legislative body:

- (1) appoint all subordinate officers, employees, members, or agents in the department; and
- (2) fill vacancies in the positions listed in Subsection (1).

Amended by Chapter 178, 2001 General Session

10-3-1002 Classified civil service -- Places of employment constituting classified civil service -- Appointments to and from classified civil service.

- (1) The classified civil service shall consist of all places of employment now existing or hereafter created in or under the police department and the fire department of each first or second class city that establishes a civil service commission and the health department in each first class city that establishes a civil service commission, except the head of the departments, deputy chiefs of the police and fire departments, and assistant chiefs of the police department and fire department in cities of the first and second class, and the members of the board of health of the departments.
- (2) No appointments to any of the places of employment constituting the classified civil service in the departments shall be made except according to law and under the rules and regulations of the civil service commission.
- (3) The head of each of the departments may, and the deputy chiefs of the police and fire departments and assistant chiefs of the police and fire departments shall, be appointed from the classified civil service, and upon the expiration of the term or upon the appointment of a successor shall be returned thereto.

Amended by Chapter 321, 2012 General Session

10-3-1003 Civil service commission -- Number, term, vacancies.

- (1)
 - (a) A city of the first or second class may establish a civil service commission under this part.
 - (b) A city that establishes a civil service commission under this part may dissolve the civil service commission.
- (2) Each civil service commission under this part shall consist of three members appointed by the city legislative body.
- (3)
 - (a) The term of office of commission members shall be six years, but members shall be appointed so that the term of office of one member shall expire on the 30th day of June of each even-numbered year.
 - (b) If a vacancy occurs in the civil service commission, it shall be filled by appointment by the city legislative body for the unexpired term.

Amended by Chapter 204, 2006 General Session

10-3-1004 Qualifications of commissioners -- Salary -- Removal.

Not more than two members of the civil service commission shall at any one time be of the same political party. No member of the civil service commission shall during his tenure of office hold any other public office, or be a candidate for any other public office. Each member shall receive \$25 for each meeting of the commission which he shall attend, but may not receive more than \$100 in any one month. In case of misconduct, inability or willful neglect in the performance of the duties of the office by any member, the member may be removed from office by the board of city commissioners by a majority vote of the entire membership, but the member shall, if he so desires, have opportunity to be heard in defense.

Amended by Chapter 378, 2010 General Session

10-3-1005 Organization of commission -- Secretary -- Offices.

The civil service commission shall organize by selecting one of its members chairman, and shall appoint as secretary one of the available officers or employees of the city, who shall act and serve without additional compensation. The secretary shall keep a record of all meetings of the civil service commission and of its work and shall perform such other services as the commission may require, and shall have the custody of the books and records of the commission. The board of city commissioners shall provide suitable accommodations and equipment to enable the civil service commission to attend to its business.

Enacted by Chapter 48, 1977 General Session

10-3-1006 Rules and regulations -- Printing and distribution.

The civil service commission shall make all necessary rules and regulations to carry out the purposes of this part and for examinations, appointments and promotions. All rules and regulations shall be printed by the civil service commission for distribution.

Enacted by Chapter 48, 1977 General Session

10-3-1007 Examinations.

All applicants for employment in the classified civil service shall be subject to examination, which shall be public, competitive and free. Examinations shall be held at such times and places as the civil service commission shall from time to time determine, and shall be for the purpose of determining the qualifications of applicants for positions. Examinations shall be practical and shall fairly test the fitness in every respect of the persons examined to discharge the duties of the positions to which they seek to be appointed, and shall include tests of physical qualifications and health.

Enacted by Chapter 48, 1977 General Session

10-3-1008 Appointments from civil service list -- Probation period.

In all cases the appointing power shall notify the civil service commission of each separate position to be filled, and shall fill such place by the appointment of one of the persons certified by the commission therefor. Such appointment shall be on probation, and of a character and for a period to be prescribed by the civil service commission.

Enacted by Chapter 48, 1977 General Session

10-3-1009 Certification of applicants for position -- Number -- Eligible lists, removal.

- (1) If a position in the classified civil service is to be filled, the civil service commission shall as soon as possible certify to the appointing power the names of:
 - (a) 10 persons, if the position to be filled is entry level; or
 - (b) five persons, if the position to be filled is other than entry level.
- (2) Persons certified under Subsection (1) shall have the highest standing in the eligible list, but a lesser number may be certified if the required number is not on the eligible list.
- (3) If more than one position is available in the same department, the civil service commission shall also certify to the appointing power one additional name for each additional position to be filled.
- (4)
 - (a) All persons not appointed shall be restored to their relative positions on the eligible list.
 - (b) All persons who have been on the eligible list for two years without appointment shall be removed from the list and may be returned to it only upon regular examination.

Amended by Chapter 23, 1998 General Session

10-3-1010 Promotions -- Basis -- Certification of applicants.

The civil service commission shall provide for promotion in the classified civil service on the basis of ascertained merit, seniority in service and standing obtained by competitive examination, and shall provide, in all cases where practicable, that vacancies shall be filled by promotion from the members of the next lower rank as submit themselves for the examination and promotion. The civil service commission shall certify to the appointing power the names of not more than five applicants having the highest rating for each promotion.

Amended by Chapter 29, 1983 General Session

10-3-1011 Temporary employees.

The head of each department, with the advice and consent of the board of city commissioners, may employ any person for temporary work only, without making the appointment from the certified list, but the appointment may not be longer than one month in the same calendar year, and under no circumstances shall the temporary employee be appointed to a permanent position unless he shall have been duly certified by the civil service commission as in other cases.

Amended by Chapter 378, 2010 General Session

10-3-1012 Suspension or discharge by department head -- Appeal to commission -- Hearing and decision.

- (1) All persons in the classified civil service may be suspended as provided in Section 10-3-912, or removed from office or employment by the head of the department for misconduct, incompetency, failure to perform duties, or failure to observe properly the rules of the department, but subject to appeal by the suspended or discharged person to the civil service commission.
- (2) Any person suspended or discharged may, within five days from the issuance by the head of the department of the order of suspension or discharge, appeal to the civil service commission, which shall fully hear and determine the matter.

- (3) The suspended or discharged person shall be entitled to appear in person and to have counsel and a public hearing.
- (4) The finding and decision of the civil service commission upon the hearing shall be certified to the head of the department from whose order the appeal is taken, and shall be final and immediately enforced by the head.

Amended by Chapter 178, 2001 General Session

10-3-1012.5 Appeal to Court of Appeals -- Scope of review.

Any final action or order of the commission may be appealed to the Court of Appeals for review. The notice of appeal shall be filed within 30 days of the issuance of the final action or order of the commission. The review by Court of Appeals shall be on the record of the commission and shall be for the purpose of determining if the commission has abused its discretion or exceeded its authority.

Amended by Chapter 378, 2010 General Session

10-3-1013 Annual and special reports by commission.

The civil service commission shall in December of each year make an annual report to the board of city commissioners and shall make as many special reports as the board of city commissioners shall request.

Enacted by Chapter 48, 1977 General Session

Part 11

Personnel Rules and Benefits

10-3-1103 Sickness, disability and death benefits.

- (1) The governing body of each municipality may maintain as to all elective or appointive officers and employees, including heads of departments, a system for the payment of health, dental, hospital, medical, disability and death benefits to be financed and administered in a manner and payable upon the terms and conditions as the governing body of the municipality may by ordinance or resolution prescribe.
- (2) The governing bodies of the municipalities may create and administer personnel benefit programs separately or jointly with other municipalities or other political subdivisions of the State of Utah or associations thereof.

Enacted by Chapter 48, 1977 General Session

10-3-1104 Library personnel -- Monthly wage deductions and matching sums -- Time of inclusion.

- (1) The librarians, assistants and employees of any public library may, at the discretion of the board of directors of the library, be included within and participate in the pension, retirement, sickness, disability and death benefit system established under Section 10-3-1103. In the event the librarian, assistants and employees of the municipality are included within and participate in the system, there shall be deducted from the monthly wage or salary of the librarian, assistants

and employees and paid into the system, a percentage of their wage or salary equal to the percentage of the monthly wage or salary of other employees of the municipality which is paid into the system. Also there shall be paid monthly into the system from the funds of the library a further sum equal to the total amount deducted monthly from the wage or salary of the librarian, assistants and employees and paid into the retirement system.

- (2) Where the election by the board of directors of any library for inclusion of its librarian, assistants and employees within the system of any municipality is subsequent to the establishment of the system, the inclusion may begin as of the date of the establishment of the system or as of the date of the election as shall be determined by the board of directors. If inclusion is as of the date of the establishment of the system, there shall be paid into the system in addition to the subsequent monthly wage deductions and matching sums, a sum equal to the aggregate of monthly payroll deductions and matching sums that would have accrued during the period beginning with the establishment of the system and ending with the election had the librarian, assistants and employees been included within the system from its establishment.

Enacted by Chapter 48, 1977 General Session

10-3-1105 Municipal employees -- Duration and termination of employment -- Exceptions.

- (1)
- (a) Except as provided in Subsection (1)(b) or (2), each employee of a municipality shall hold employment without limitation of time, being subject to discharge, suspension of over two days without pay, or involuntary transfer to a position with less remuneration only as provided in Section 10-3-1106.
 - (b) Subsection (1)(a) does not apply to an employee who is discharged or involuntarily transferred to a position with less remuneration if the discharge or involuntary transfer is the result of a layoff or reorganization.
- (2) Subsection (1)(a) does not apply to:
- (a) subject to Subsection (3), a person appointed by the mayor, city manager, or other person or body with the power to appoint in the municipality if:
 - (i) the appointment is made in writing;
 - (ii) the person's written job description identifies the person's position as exempt from the protections described in Subsection (1)(a); and
 - (iii) the position is described in an ordinance as exempt from the protections described in Subsection (1)(a);
 - (b) a member of the municipality's police department or fire department who is a member of the classified civil service in a first or second class city;
 - (c) a person who holds a position described in Subsections (2)(c)(i) through (xii) or an equivalent position designated in a municipal ordinance or personnel policy:
 - (i) a police chief of the municipality;
 - (ii) a deputy or assistant police chief of the municipality;
 - (iii) a fire chief of the municipality;
 - (iv) a deputy or assistant fire chief of the municipality;
 - (v) a head of a municipal department or division;
 - (vi) a deputy of a head of a municipal department or division;
 - (vii) a superintendent;
 - (viii) a probationary employee of the municipality;
 - (ix) a part-time employee of the municipality, including paid call firefighters;
 - (x) a seasonal or temporary employee of the municipality;

- (xi) a person who works in the office of an elected official; or
- (xii) a secretarial or administrative assistant support position that is specifically designated as a position to assist an elected official or the head or deputy head of a municipal department;
- (d) an individual appointed to a position under Part 9, Appointed Officials and Their Duties, including:
 - (i) the city engineer;
 - (ii) the city recorder;
 - (iii) the city treasurer; or
 - (iv) the city attorney; or
- (e) an employee who has:
 - (i) acknowledged in writing that the employee's employment status is appointed or at-will; or
 - (ii) voluntarily waived the procedures required by Section 10-3-1106.
- (3) In addition to the persons described in Subsections (2)(b) through (e), a municipality may appoint up to 5% of the municipality's workforce in accordance with Subsection (2)(a).
- (4) Nothing in this section or Section 10-3-1106 may be construed to limit a municipality's ability to define cause for an employee termination or reduction in force.

Amended by Chapter 321, 2012 General Session

10-3-1106 Discharge, suspension without pay, or involuntary transfer -- Appeals -- Board -- Procedure.

- (1) An employee to which Section 10-3-1105 applies may not be discharged, suspended without pay, or involuntarily transferred to a position with less remuneration:
 - (a) because of the employee's politics or religious belief; or
 - (b) incident to, or through changes, either in the elective officers, governing body, or heads of departments.
- (2)
 - (a) If an employee other than an employee described in Subsection 10-3-1105(2) is discharged, suspended for more than two days without pay, or involuntarily transferred from one position to another with less remuneration for any disciplinary reason, the employee may, subject to Subsection (2)(b), appeal the final decision to discharge, suspend without pay, or involuntarily transfer to an appeal board or hearing officer established under Subsection (7).
 - (b) If the municipality provides an internal grievance procedure, the employee shall exhaust the employee's rights under that grievance procedure before appealing to the appeal board or hearing officer.
- (3)
 - (a) Each appeal under Subsection (2) shall be taken by filing written notice of the appeal with the municipal recorder in accordance with procedures established by a municipality within 10 calendar days after:
 - (i) if the municipality provides an internal grievance procedure, the employee receives notice of the final disposition of the municipality's internal grievance procedure; or
 - (ii) if the municipality does not provide an internal grievance procedure, the discharge, suspension, or involuntary transfer.
 - (b)
 - (i) Upon the filing of an appeal under Subsection (3)(a), the municipal recorder shall refer a copy of a properly filed appeal to the appeal board or hearing officer described in Subsection (7).

- (ii) Upon receipt of the referral from the municipal recorder, the appeal board or hearing officer shall schedule a hearing to take and receive evidence and fully hear and determine the matter which relates to the reason for the discharge, suspension, or transfer.
- (4)
 - (a) An employee who is the subject of the discharge, suspension, or transfer may:
 - (i) appear in person and be represented by counsel;
 - (ii) have a hearing open to the public;
 - (iii) confront the witness whose testimony is to be considered; and
 - (iv) examine the evidence to be considered by the appeal board.
 - (b) An employee or the municipality may request the hearing described in Subsection (4)(a)(ii).
- (5)
 - (a)
 - (i) A decision of the appeal board shall be by secret ballot.
 - (ii) The appeal board or the hearing officer shall certify a decision by the appeal board or hearing officer, respectively, with the recorder no later than 15 days after the day on which the hearing is held, except as provided in Subsection (5)(a)(iii).
 - (iii) For good cause, the appeal board or hearing officer may extend the 15-day period under Subsection (5)(a)(ii) to a maximum of 60 calendar days, if the employee and municipality both consent.
 - (b) If the appeal board or hearing officer finds in favor of the employee, the appeal board or hearing officer shall provide that the employee shall receive:
 - (i) the employee's salary for the period of time during which the employee is discharged or suspended without pay less any amounts the employee earned from other employment during this period of time; or
 - (ii) any deficiency in salary for the period during which the employee was transferred to a position of less remuneration.
- (6)
 - (a) A final action or order of the appeal board or hearing officer may be reviewed by the Court of Appeals by filing with that court a petition for review.
 - (b) A petition under Subsection (6)(a) shall be filed within 30 days after the issuance of the final action or order of the appeal board or hearing officer.
 - (c) The Court of Appeals' review shall be:
 - (i) on the record of the appeal board or hearing officer; and
 - (ii) for the purpose of determining if the appeal board or hearing officer abused its discretion or exceeded its authority.
- (7)
 - (a) The method and manner of choosing a hearing officer or the members of the appeal board, the number of members, the designation of a hearing officer's or appeal board member's term of office, and the procedure for conducting an appeal and the standard of review shall be prescribed by the governing body of each municipality by ordinance.
 - (b) For a municipality operating under a form of government other than a council-mayor form under Chapter 3b, Part 2, Council-Mayor Form of Municipal Government, an ordinance adopted under Subsection (7)(a) may provide that the governing body of the municipality shall serve as the appeal board.
- (8) This section does not apply to an employee:
 - (a) described in Subsection 10-3-1105(2); or
 - (b) discharged or transferred to a position with less remuneration if the discharge or transfer is the result of a layoff, reorganization, or other non-disciplinary reason.

Amended by Chapter 321, 2012 General Session

10-3-1107 Cost of living adjustment -- Price index used.

- (1) The governing body of each municipality may, in their discretion, adopt a plan to allow any person who qualifies under this part to receive a cost of living adjustment in that person's monthly retirement allowance. The adjustment allowed shall be a percentage, not to exceed 100%, of the sum as would restore the full purchasing power of each person's original unmodified pension allowance as it was in the calendar year in which the retirement giving rise to the pension occurred.
- (2) The amount necessary to restore the full purchasing power of the original unmodified pension allowance shall be computed from the consumers price index published by the United States Bureau of Labor Statistics.
- (3) Adjustments may be effective as of the date of this act or at any subsequent date set by the governing body. A municipality may choose to pay any per cent to the maximum amount provided that such percentage be paid to all qualified persons equally.

Amended by Chapter 4, 1993 General Session

10-3-1108 Political activity of municipal officer or employee.

- (1) For purposes of this section, "hours of employment" means occurring at a time when an officer or employee is acting within the course and scope of employment, but excludes a lunch break afforded to the officer or employee.
- (2) Except as otherwise provided by federal law:
 - (a) the partisan political activity, political opinion, or political affiliation of an applicant for a position with a municipality may not provide a basis for denying employment to the applicant;
 - (b) an officer or employee's partisan political activity, political opinion, or political affiliation may not provide the basis for the officer or employee's employment, promotion, disciplinary action, demotion, or dismissal;
 - (c) a municipal officer or employee may not engage in political campaigning or solicit political contributions during hours of employment;
 - (d) a municipal officer or employee may not use municipal equipment while engaged in political activity;
 - (e) a municipal officer or employee may not directly or indirectly coerce, command, or advise another municipal officer or employee to pay, lend, or contribute part of the officer or employee's salary or compensation, or anything else of value to a political party, committee, organization, agency, or person for political purposes; and
 - (f) a municipal officer or employee may not attempt to make another officer or employee's personnel status dependent on the officer or employee's support or lack of support of a political party, affiliation, opinion, committee, organization, agency, or person engaged in political activity.
- (3) A municipal employee who has filed a declaration of candidacy may:
 - (a) be given a leave of absence for the period between the primary election and the general election; and
 - (b) use any vacation or other leave available to engage in campaign activities.
- (4) If a municipal officer or employee is elected to a public office, the employee may:
 - (a) be given a leave of absence without pay for the time during which the employee receives compensation for service in the public office; and

- (b) use any vacation or other leave available to serve in the public office.
- (5) Neither the filing of a declaration of candidacy nor a leave of absence under this section may be used as the basis for an adverse employment action, including discipline and termination, against the employee.
- (6) Nothing in this section may be construed to:
 - (a) prohibit a municipal officer or employee's voluntary contribution to a party or candidate of the officer or employee's choice; or
 - (b) permit a municipal officer or employee's partisan political activity that is prohibited under federal law.

Enacted by Chapter 79, 2000 General Session

10-3-1109 Compliance with Labor Code requirements.

Each municipality shall comply with the requirements of Section 34-32-1.1.

Enacted by Chapter 284, 2003 General Session

10-3-1110 Exemption from state licensure by Division of Real Estate.

In accordance with Section 61-2f-202, an employee of a municipality is exempt from licensure under Title 61, Chapter 2f, Real Estate Licensing and Practices Act:

- (1) when engaging in an act on behalf of the municipality in accordance with:
 - (a) this title; or
 - (b) Title 11, Cities, Counties, and Local Taxing Units; and
- (2) if the act described in Subsection (1) is related to one or more of the following:
 - (a) acquiring real estate, including by eminent domain;
 - (b) disposing of real estate;
 - (c) providing services that constitute property management, as defined in Section 61-2f-102; or
 - (d) leasing real estate.

Amended by Chapter 379, 2010 General Session

Part 13

Municipal Officers' and Employees' Ethics Act

10-3-1301 Short title.

This part is known as the "Municipal Officers' and Employees' Ethics Act."

Amended by Chapter 147, 1989 General Session

10-3-1302 Purpose.

- (1) The purposes of this part are to establish standards of conduct for municipal officers and employees and to require these persons to disclose actual or potential conflicts of interest between their public duties and their personal interests.
- (2) In a metro township, as defined in Section 10-2a-403, the provisions of this part may not be applied to an appointed officer as that term is defined in Section 17-16a-3 or a county employee who is required by law to provide services to the metro township.

Amended by Chapter 352, 2015 General Session

10-3-1303 Definitions.

As used in this part:

- (1) "Appointed officer" means any person appointed to any statutory office or position or any other person appointed to any position of employment with a city or with a community development and renewal agency under Title 17C, Limited Purpose Local Government Entities - Community Development and Renewal Agencies Act. Appointed officers include, but are not limited to, persons serving on special, regular, or full-time committees, agencies, or boards whether or not such persons are compensated for their services. The use of the word "officer" in this part is not intended to make appointed persons or employees "officers" of the municipality.
- (2) "Assist" means to act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and with the intent to assist such person or business entity.
- (3) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.
- (4) "Compensation" means anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone other than the governmental employer for or in consideration of personal services, materials, property, or any other thing whatsoever.
- (5) "Elected officer" means a person:
 - (a) elected or appointed to the office of mayor, commissioner, or council member; or
 - (b) who is considered to be elected to the office of mayor, commissioner, or council member by a municipal legislative body in accordance with Section 20A-1-206.
- (6) "Improper disclosure" means disclosure of private, controlled, or protected information to any person who does not have both the right and the need to receive the information.
- (7) "Municipal employee" means a person who is not an elected or appointed officer who is employed on a full or part-time basis by a municipality or by a community development and renewal agency under Title 17C, Limited Purpose Local Government Entities - Community Development and Renewal Agencies Act.
- (8) "Private, controlled, or protected information" means information classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act or other applicable provision of law.
- (9) "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, or the individual's minor children, of at least 10% of the outstanding shares of a corporation or 10% interest in any other business entity.

Amended by Chapter 40, 2011 General Session

10-3-1304 Use of office for personal benefit prohibited.

- (1) As used in this section, "economic benefit tantamount to a gift" includes:
 - (a) a loan at an interest rate that is substantially lower than the commercial rate then currently prevalent for similar loans; and
 - (b) compensation received for private services rendered at a rate substantially exceeding the fair market value of the services.

- (2) Except as provided in Subsection (4), it is an offense for an elected or appointed officer or municipal employee to:
 - (a) disclose or improperly use private, controlled, or protected information acquired by reason of the officer's or employee's official position or in the course of official duties in order to further substantially the officer's or employee's personal economic interest or to secure special privileges or exemptions for the officer or employee or for others;
 - (b) use or attempt to use the officer's or employee's official position to:
 - (i) further substantially the officer's or employee's personal economic interest; or
 - (ii) secure special privileges for the officer or employee or for others; or
 - (c) knowingly receive, accept, take, seek, or solicit, directly or indirectly, for the officer or employee or for another, a gift of substantial value or a substantial economic benefit tantamount to a gift that:
 - (i) would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties; or
 - (ii) the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken.
- (3) Subsection (2)(c) does not apply to:
 - (a) an occasional nonpecuniary gift having a value of less than \$50;
 - (b) an award publicly presented in recognition of public services;
 - (c) any bona fide loan made in the ordinary course of business; or
 - (d) a political campaign contribution.
- (4) This section does not apply to an elected or appointed officer or municipal employee who engages in conduct that constitutes a violation of this section to the extent that the elected or appointed officer or municipal employee is chargeable, for the same conduct, under Section 76-8-105.

Amended by Chapter 445, 2013 General Session

10-3-1305 Compensation for assistance in transaction involving municipality -- Public disclosure and filing required.

- (1) As used in this section, "municipal body" means any public board, commission, committee, or other public group organized to make public policy decisions or to advise persons who make public policy decisions.
- (2) Except as provided in Subsection (6), it is an offense for an elected officer, or an appointed officer, who is a member of a public body to receive or agree to receive compensation for assisting any person or business entity in any transaction involving the municipality in which the member is an officer unless the member:
 - (a) files with the mayor a sworn statement giving the information required by this section; and
 - (b) discloses the information required by Subsection (5) in an open meeting to the members of the body of which the officer is a member immediately before the discussion.
- (3) It is an offense for an appointed officer who is not a member of a public body or a municipal employee to receive or agree to receive compensation for assisting any person or business entity in any transaction involving the municipality by which the person is employed unless the officer or employee:
 - (a) files with the mayor a sworn statement giving the information required by this section; and
 - (b) discloses the information required by Subsection (5) to:
 - (i) the officer or employee's immediate supervisor; and

- (ii) any other municipal officer or employee who may rely upon the employee's representations in evaluating or approving the transaction.
- (4)
 - (a) The officer or employee shall file the statement required to be filed by this section 10 days before the date of any agreement between the elected or appointed officer or municipal employee and the person or business entity being assisted or 10 days before the receipt of compensation by the officer or employee, whichever is earlier.
 - (b) The statement is public information and shall be available for examination by the public.
- (5) The statement and disclosure shall contain:
 - (a) the name and address of the officer or municipal employee;
 - (b) the name and address of the person or business entity being or to be assisted or in which the appointed or elected official or municipal employee has a substantial interest; and
 - (c) a brief description of the transaction as to which service is rendered or is to be rendered and of the nature of the service performed or to be performed.
- (6) This section does not apply to an elected officer, or an appointed officer, who is a member of a public body and who engages in conduct that constitutes a violation of this section to the extent that the elected officer or appointed officer is chargeable, for the same conduct, under Section 76-8-105.

Amended by Chapter 445, 2013 General Session

10-3-1306 Interest in business entity regulated by municipality -- Disclosure statement required.

- (1) Every appointed or elected officer or municipal employee who is an officer, director, agent, or employee or the owner of a substantial interest in any business entity which is subject to the regulation of the municipality in which he is an elected or appointed officer or municipal employee shall disclose the position held and the nature and value of his interest upon first becoming appointed, elected, or employed by the municipality, and again at any time thereafter if the elected or appointed officer's or municipal employee's position in the business entity has changed significantly or if the value of his interest in the entity has increased significantly since the last disclosure.
- (2) The disclosure shall be made in a sworn statement filed with the mayor. The mayor shall report the substance of all such disclosure statements to the members of the governing body, or may provide to the members of the governing body copies of the disclosure statement within 30 days after the statement is received by him.
- (3) This section does not apply to instances where the value of the interest does not exceed \$2,000. Life insurance policies and annuities may not be considered in determining the value of any such interest.

Amended by Chapter 378, 2010 General Session

10-3-1307 Interest in business entity doing business with municipality -- Disclosure.

- (1) Every appointed or elected officer or municipal employee who is an officer, director, agent, employee, or owner of a substantial interest in any business entity which does or anticipates doing business with the municipality in which he is an appointed or elected officer or municipal employee, shall publicly disclose to the members of the body of which he is a member or by which he is employed immediately prior to any discussion by such body concerning matters relating to such business entity, the nature of his interest in that business entity.

- (2) The disclosure statement shall be entered in the minutes of the meeting.
- (3) Disclosure by a municipal employee under this section is satisfied if the employee makes the disclosure in the manner required by Sections 10-3-1305 and 10-3-1306.

Amended by Chapter 147, 1989 General Session

10-3-1308 Investment creating conflict of interest with duties -- Disclosure.

Any personal interest or investment by a municipal employee or by any elected or appointed official of a municipality which creates a conflict between the employee's or official's personal interests and his public duties shall be disclosed in open meeting to the members of the body in the manner required by Section 10-3-1306.

Amended by Chapter 147, 1989 General Session

10-3-1309 Inducing officer or employee to violate part prohibited.

It is a class A misdemeanor for any person to induce or seek to induce any appointed or elected officer or municipal employee to violate any of the provisions of this part.

Amended by Chapter 241, 1991 General Session

10-3-1310 Penalties for violation -- Dismissal from employment or removal from office.

In addition to any penalty contained in any other provision of law, any person who knowingly and intentionally violates this part, with the exception of Sections 10-3-1306, 10-3-1307, 10-3-1308, and 10-3-1309, shall be dismissed from employment or removed from office and is guilty of:

- (1) a felony of the second degree if the total value of the compensation, conflict of interest, or assistance exceeds \$1,000;
- (2) a felony of the third degree if:
 - (a) the total value of the compensation, conflict of interest, or assistance is more than \$250 but not more than \$1,000; or
 - (b) the elected or appointed officer or municipal employee has been twice before convicted of violation of this chapter and the value of the conflict of interest, compensation, or assistance was \$250 or less;
- (3) a class A misdemeanor if the value of the compensation or assistance was more than \$100 but does not exceed \$250; or
- (4) a class B misdemeanor if the value of the compensation or assistance was \$100 or less.

Amended by Chapter 147, 1989 General Session

10-3-1311 Municipal ethics commission -- Complaints charging violations.

- (1) A municipality may establish by ordinance an ethics commission to review a complaint against an officer or employee subject to this part for a violation of a provision of this part.
- (2)
 - (a) A person filing a complaint for a violation of this part shall file the complaint:
 - (i) with the municipal ethics commission, if a municipality has established a municipal ethics commission in accordance with Subsection (1); or

- (ii) with the Political Subdivisions Ethics Review Commission in accordance with Title 11, Chapter 49, Political Subdivisions Ethics Review Commission, if the municipality has not established a municipal ethics commission.
- (b) A municipality that receives a complaint described in Subsection (2)(a) may:
 - (i) accept the complaint if the municipality has established a municipal ethics commission in accordance with Subsection (1); or
 - (ii) forward the complaint to the Political Subdivisions Ethics Review Commission established in Section 11-49-201:
 - (A) regardless of whether the municipality has established a municipal ethics commission; or
 - (B) if the municipality has not established a municipal ethics commission.
- (3) If the alleged ethics complaint is against a person who is a member of the municipal ethics commission, the complaint shall be filed with or forwarded to the Political Subdivisions Ethics Review Commission.

Amended by Chapter 202, 2012 General Session

10-3-1312 Violation of disclosure requirements -- Penalties -- Rescission of prohibited transaction.

If any transaction is entered into in connection with a violation of Section 10-3-1305, 10-3-1306, 10-3-1307, or 10-3-1308, the municipality:

- (1) shall dismiss or remove the appointed or elected officer or municipal employee who knowingly and intentionally violates this part from employment or office; and
- (2) may rescind or void any contract or subcontract entered into pursuant to that transaction without returning any part of the consideration received by the municipality.

Amended by Chapter 147, 1989 General Session

Chapter 3b
Forms of Municipal Government

Part 1
General Provisions

10-3b-101 Title.

This chapter is known as "Forms of Municipal Government."

Enacted by Chapter 19, 2008 General Session

10-3b-102 Definitions.

As used in this chapter:

- (1) "Council-mayor form of government" means the form of municipal government that:
 - (a)
 - (i) is provided for in Laws of Utah 1977, Chapter 48;
 - (ii) may not be adopted without voter approval; and
 - (iii) consists of two separate, independent, and equal branches of municipal government; and

- (b) on and after May 5, 2008, is described in Part 2, Council-Mayor Form of Municipal Government.
- (2) "Five-member council form of government" means the form of municipal government described in Part 4, Five-Member Council Form of Municipal Government.
- (3) "Metro township" means the same as that term is defined in Section 10-2a-403.
- (4) "Metro township council form of government" means the form of metro township government described in Part 5, Metro Township Council Form of Municipal Government.
- (5) "Six-member council form of government" means the form of municipal government described in Part 3, Six-Member Council Form of Municipal Government.

Amended by Chapter 352, 2015 General Session

10-3b-103 Forms of municipal government -- Form of government for towns -- Former council-manager form.

- (1) A municipality operating on May 4, 2008, under the council-mayor form of government:
 - (a) shall, on and after May 5, 2008:
 - (i) operate under a council-mayor form of government, as defined in Section 10-3b-102; and
 - (ii) be subject to:
 - (A) this part;
 - (B) Part 2, Council-mayor Form of Municipal Government;
 - (C) Part 6, Changing to Another Form of Municipal Government; and
 - (D) except as provided in Subsection (1)(b), other applicable provisions of this title; and
 - (b) is not subject to:
 - (i) Part 3, Six-member Council Form of Municipal Government;
 - (ii) Part 4, Five-member Council Form of Municipal Government; or
 - (iii) Part 5, Metro Township Council Form of Municipal Government.
- (2) A municipality operating on May 4, 2008 under a form of government known under the law then in effect as the six-member council form:
 - (a) shall, on and after May 5, 2008, and whether or not the council has adopted an ordinance appointing a manager for the municipality:
 - (i) operate under a six-member council form of government, as defined in Section 10-3b-102;
 - (ii) be subject to:
 - (A) this part;
 - (B) Part 3, Six-member Council Form of Municipal Government;
 - (C) Part 6, Changing to Another Form of Municipal Government; and
 - (D) except as provided in Subsection (2)(b), other applicable provisions of this title; and
 - (b) is not subject to:
 - (i) Part 2, Council-mayor Form of Municipal Government;
 - (ii) Part 4, Five-member Council Form of Municipal Government; or
 - (iii) Part 5, Metro Township Council Form of Municipal Government.
- (3) A municipality operating on May 4, 2008, under a form of government known under the law then in effect as the five-member council form:
 - (a) shall, on and after May 5, 2008:
 - (i) operate under a five-member council form of government, as defined in Section 10-3b-102;
 - (ii) be subject to:
 - (A) this part;
 - (B) Part 4, Five-member Council Form of Municipal Government;
 - (C) Part 6, Changing to Another Form of Municipal Government; and

- (D) except as provided in Subsection (3)(b), other applicable provisions of this title; and
- (b) is not subject to:
 - (i) Part 2, Council-mayor Form of Municipal Government;
 - (ii) Part 3, Six-member Council Form of Municipal Government; or
 - (iii) Part 5, Metro Township Council Form of Municipal Government.
- (4) Subject to Subsection (5), each municipality other than a metro township incorporated on or after May 5, 2008, shall operate under:
 - (a) the council-mayor form of government, with a five-member council;
 - (b) the council-mayor form of government, with a seven-member council;
 - (c) the six-member council form of government; or
 - (d) the five-member council form of government.
- (5) Each town shall operate under a five-member council form of government unless:
 - (a) before May 5, 2008, the town has changed to another form of municipal government; or
 - (b) on or after May 5, 2008, the town changes its form of government as provided in Part 6, Changing to Another Form of Municipal Government.
- (6) Each metro township:
 - (a) shall operate under a metro township council form of government;
 - (b) is subject to:
 - (i) this part;
 - (ii) Part 5, Metro Township Council Form of Municipal Government; and
 - (iii) except as provided in Subsection (6)(c), other applicable provisions of this title; and
 - (c) is not subject to:
 - (i) Part 2, Council-mayor Form of Municipal Government;
 - (ii) Part 3, Six-member Council Form of Municipal Government; or
 - (iii) Part 4, Five-Member Council Form of Municipal Government.
- (7)
 - (a) As used in this Subsection (7), "council-manager form of government" means the form of municipal government:
 - (i) provided for in Laws of Utah 1977, Chapter 48;
 - (ii) that cannot be adopted without voter approval; and
 - (iii) that provides for, subject to Subsections (8) and (9), an appointed manager with duties and responsibilities established in Laws of Utah 1977, Chapter 48.
 - (b) A municipality operating on May 4, 2008, under the council-manager form of government:
 - (i) shall:
 - (A) continue to operate, on and after May 5, 2008, under the council-manager form of government according to the applicable provisions of Laws of Utah 1977, Chapter 48; and
 - (B) be subject to:
 - (I) this Subsection (7) and other applicable provisions of this part;
 - (II) Part 6, Changing to Another Form of Municipal Government; and
 - (III) except as provided in Subsection (7)(b)(ii), other applicable provisions of this title; and
 - (ii) is not subject to:
 - (A) Part 2, Council-mayor Form of Municipal Government;
 - (B) Part 3, Six-member Council Form of Municipal Government;
 - (C) Part 4, Five-member Council Form of Municipal Government; or
 - (D) Part 5, Metro Township Council Form of Municipal Government.
- (8)
 - (a) As used in this Subsection (8), "interim vacancy period" means the period of time that:

- (i) begins on the day on which a municipal general election described in Section 10-3-201 is held to elect a council member; and
 - (ii) ends on the day on which the council member-elect begins the council member's term.
- (b)
- (i) The council may not appoint a manager during an interim vacancy period.
 - (ii) Notwithstanding Subsection (8)(b)(i):
 - (A) the council may appoint an interim manager during an interim vacancy period; and
 - (B) the interim manager's term shall expire once a new manager is appointed by the new administration after the interim vacancy period has ended.
 - (c) Subsection (8)(b) does not apply if all the council members who held office on the day of the municipal general election whose term of office was vacant for the election are re-elected to the council for the following term.
- (9) A council that appoints a manager in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the manager.
- (10) Nothing in this section may be construed to prevent or limit a municipality operating under any form of municipal government from changing to another form of government as provided in Part 6, Changing to Another Form of Municipal Government.

Amended by Chapter 352, 2015 General Session

10-3b-104 Powers and duties of mayor in six-member council and five-member council forms of government.

- (1) Except as provided in Subsection (2), the mayor in a municipality operating under a six-member council form of government or a five-member council form of government:
- (a) is the chief executive officer of the municipality to whom all employees of the municipality report;
 - (b) shall:
 - (i) keep the peace and enforce the laws of the municipality;
 - (ii) ensure that all applicable statutes and municipal ordinances and resolutions are faithfully executed and observed;
 - (iii) if the mayor remits a fine or forfeiture under Subsection (1)(c)(ii), report the remittance to the council at the council's next meeting after the remittance;
 - (iv) perform all duties prescribed by statute or municipal ordinance or resolution;
 - (v) report to the council the condition and needs of the municipality; and
 - (vi) report to the council any release granted under Subsection (1)(c)(iv); and
 - (c) may:
 - (i) recommend for council consideration any measure that the mayor considers to be in the best interests of the municipality;
 - (ii) remit fines and forfeitures;
 - (iii) if necessary, call on residents of the municipality over the age of 21 years to assist in enforcing the laws of the state and ordinances of the municipality;
 - (iv) release a person imprisoned for a violation of a municipal ordinance;
 - (v) with the council's advice and consent:
 - (A) assign or appoint a member of the council to administer one or more departments of the municipality; and
 - (B) appoint a person to fill:
 - (I) a municipal office; or

- (II) a vacancy on a commission or committee of the municipality; and
- (vi) at any reasonable time, examine and inspect the official books, papers, records, or documents of:
 - (A) the municipality; or
 - (B) any officer, employee, or agency of the municipality.
- (2) The powers and duties in Subsection (1) are subject to:
 - (a) municipal ordinances in effect on May 4, 2008 modifying the powers and duties of the mayor; and
 - (b) the council's authority to limit or expand the mayor's powers and duties under:
 - (i) Subsection 10-3b-303(2)(a), for a municipality operating under the six-member council form of government; and
 - (ii) Subsection 10-3b-403(2)(a), for a municipality operating under the five-member council form of government.

Enacted by Chapter 19, 2008 General Session

10-3b-105 Municipal council in six-member council and five-member council forms of government.

In a municipality operating under a six-member council form of government or a five-member council form of government, the council:

- (1) is the legislative body of the municipality and exercises the legislative powers and performs the legislative duties and functions of the municipality; and
- (2) may:
 - (a) adopt rules and regulations, not inconsistent with statute, for the efficient administration, organization, operation, conduct, and business of the municipality;
 - (b) prescribe by resolution additional duties, powers, and responsibilities for any elected or appointed municipal official, unless prohibited by statute;
 - (c) require by ordinance that any or all appointed officers reside in the municipality;
 - (d) create any office that the council considers necessary for the government of the municipality;
 - (e) provide for filling a vacancy in an elective or appointive office;
 - (f) take any action allowed under Section 10-8-84; and
 - (g) perform any function specifically provided for by statute or necessarily implied by law.

Enacted by Chapter 19, 2008 General Session

Part 2
Council-Mayor Form of Municipal Government

10-3b-201 Separate branches of government under a council-mayor form of government.

The powers of municipal government in a municipality operating under the council-mayor form of government are vested in two separate, independent, and equal branches of municipal government consisting of:

- (1) a council composed of five or seven members; and
- (2) a mayor and, under the mayor's supervision, any executive or administrative departments, divisions, and offices and any executive or administrative officers provided for by statute or municipal ordinance.

Enacted by Chapter 19, 2008 General Session

10-3b-202 Mayor in council-mayor form of government.

- (1) The mayor in a municipality operating under the council-mayor form of government:
- (a) is the chief executive and administrative officer of the municipality;
 - (b) exercises the executive and administrative powers and performs or supervises the performance of the executive and administrative duties and functions of the municipality;
 - (c) shall:
 - (i) keep the peace and enforce the laws of the municipality;
 - (ii) execute the policies adopted by the council;
 - (iii) appoint, with the council's advice and consent, a qualified person for each of the following positions:
 - (A) subject to Subsection (3), chief administrative officer, if required under the resolution or petition under Subsection 10-3b-603(1)(a) that proposed the change to a council-mayor form of government;
 - (B) recorder;
 - (C) treasurer;
 - (D) engineer; and
 - (E) attorney;
 - (iv) provide to the council, at intervals provided by ordinance, a written report to the council setting forth:
 - (A) the amount of budget appropriations;
 - (B) total disbursements from the appropriations;
 - (C) the amount of indebtedness incurred or contracted against each appropriation, including disbursements and indebtedness incurred and not paid; and
 - (D) the percentage of the appropriations encumbered;
 - (v) report to the council the condition and needs of the municipality;
 - (vi) report to the council any release granted under Subsection (1)(d)(xiii);
 - (vii) if the mayor remits a fine or forfeiture under Subsection (1)(d)(xi), report the remittance to the council at the council's next meeting after the remittance;
 - (viii) perform each other duty:
 - (A) prescribed by statute; or
 - (B) required by a municipal ordinance that is not inconsistent with statute;
 - (d) may:
 - (i) subject to budget constraints:
 - (A) appoint:
 - (I) subject to Subsections (3)(b) and (4), a chief administrative officer; and
 - (II) one or more deputies or administrative assistants to the mayor; and
 - (B)
 - (I) create any other administrative office that the mayor considers necessary for good government of the municipality; and
 - (II) appoint a person to the office;
 - (ii) with the council's advice and consent and except as otherwise specifically limited by statute, appoint:
 - (A) each department head of the municipality;
 - (B) each statutory officer of the municipality; and
 - (C) each member of a statutory commission, board, or committee of the municipality;

- (iii) dismiss any person appointed by the mayor;
 - (iv) as provided in Section 10-3b-204, veto an ordinance, tax levy, or appropriation passed by the council;
 - (v) exercise control of and supervise each executive or administrative department, division, or office of the municipality;
 - (vi) within the general provisions of statute and ordinance, regulate and prescribe the powers and duties of each other executive or administrative officer or employee of the municipality;
 - (vii) attend each council meeting, take part in council meeting discussions, and freely give advice to the council;
 - (viii) appoint a budget officer to serve in place of the mayor to comply with and fulfill in all other respects the requirements of, as the case may be:
 - (A) Chapter 5, Uniform Fiscal Procedures Act for Utah Towns; or
 - (B) Chapter 6, Uniform Fiscal Procedures Act for Utah Cities;
 - (ix) execute an agreement on behalf of the municipality, or delegate, by written executive order, the authority to execute an agreement on behalf of the municipality:
 - (A) if the obligation under the agreement is within certified budget appropriations; and
 - (B) subject to Section 10-6-138;
 - (x) at any reasonable time, examine and inspect the official books, papers, records, or documents of:
 - (A) the municipality; or
 - (B) any officer, employee, or agent of the municipality;
 - (xi) remit fines and forfeitures;
 - (xii) if necessary, call on residents of the municipality over the age of 21 years to assist in enforcing the laws of the state and ordinances of the municipality; and
 - (xiii) release a person imprisoned for a violation of a municipal ordinance; and
 - (e) may not vote on any matter before the council.
- (2)
- (a) The first mayor elected under a newly established mayor-council form of government shall, within six months after taking office, draft and submit to the council a proposed ordinance:
 - (i) providing for the division of the municipality's administrative service into departments, divisions, and bureaus; and
 - (ii) defining the functions and duties of each department, division, and bureau.
 - (b) Before the council adopts an ordinance on the municipality's administrative service, the mayor may establish temporary rules and regulations to ensure efficiency and effectiveness in the divisions of the municipal government.
- (3)
- (a) As used in this Subsection (3), "interim vacancy period" means the period of time that:
 - (i) begins on the day on which a municipal general election described in Section 10-3-201 is held to elect a mayor; and
 - (ii) ends on the day on which the mayor-elect begins the mayor's term.
 - (b) Each person appointed as chief administrative officer under Subsection (1)(c)(iii)(A) shall be appointed on the basis of:
 - (i) the person's ability and prior experience in the field of public administration; and
 - (ii) any other qualification prescribed by ordinance.
 - (c)
 - (i) The mayor may not appoint a chief administrative officer during an interim vacancy period.
 - (ii) Notwithstanding Subsection (3)(c)(i):

- (A) the mayor may appoint an interim chief administrative officer during an interim vacancy period; and
- (B) the interim chief administrative officer's term shall expire once a new chief administrative officer is appointed by the new mayor after the interim vacancy period has ended.
- (d) Subsection (3)(c) does not apply if the mayor who holds office on the day of the municipal general election is re-elected to the mayor's office for the following term.
- (4) A mayor who appoints a chief administrative officer in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the chief administrative officer.

Amended by Chapter 352, 2015 General Session

10-3b-203 Council in a council-mayor form of government.

- (1) The council in a municipality operating under a council-mayor form of government:
 - (a) shall:
 - (i) by ordinance, provide for the manner in which:
 - (A) municipal property is bought, sold, traded, encumbered, or otherwise transferred; and
 - (B) a subdivision or annexation is approved, disapproved, or otherwise regulated;
 - (ii) pass ordinances, appropriate funds, and review municipal administration;
 - (iii) perform all duties that the law imposes on the council; and
 - (iv) elect one of its members to be the chair of the council;
 - (b) may:
 - (i) adopt an ordinance, to be known as the municipal administrative code:
 - (A) dividing the municipality's administrative service into departments, divisions, and bureaus; and
 - (B) defining the functions and duties of each department, division, and bureau;
 - (ii) adopt an ordinance:
 - (A) creating, consolidating, or abolishing departments, divisions, and bureaus; and
 - (B) defining or altering the functions and duties of each department, division, and bureau;
 - (iii) notwithstanding Subsection (1)(c)(iii), make suggestions or recommendations to a subordinate of the mayor;
 - (iv)
 - (A) notwithstanding Subsection (1)(c), appoint a committee of council members or citizens to conduct an investigation into:
 - (I) an officer, department, or agency of the municipality; or
 - (II) any other matter relating to the welfare of the municipality; and
 - (B) delegate to an appointed committee powers of inquiry that the council considers necessary;
 - (v) make and enforce any additional rule or regulation for the government of the council, the preservation of order, and the transaction of the council's business that the council considers necessary; and
 - (vi) take any action allowed under Section 10-8-84; and
 - (c) may not:
 - (i) direct or request, other than in writing, the appointment of a person to or the removal of a person from an executive municipal office;
 - (ii) interfere in any way with an executive officer's performance of the officer's duties; or
 - (iii) publicly or privately give orders to a subordinate of the mayor.

- (2) A member of a council in a municipality operating under the council-mayor form of government may not have any other compensated employment with the municipality.

Enacted by Chapter 19, 2008 General Session

10-3b-204 Presenting council action to mayor -- Veto -- Reconsideration -- When ordinance, tax levy, or appropriation takes effect.

- (1) The council in each municipality operating under a council-mayor form of municipal government shall present to the mayor each ordinance, tax levy, and appropriation passed by the council.
- (2)
- (a) The mayor in a municipality operating under a council-mayor form of municipal government may veto an ordinance or tax levy or all or any part of an appropriation passed by the council.
- (b) If a mayor vetoes an ordinance or tax levy or all or any part of an appropriation, the mayor shall return the ordinance, tax levy, or appropriation to the council within 15 days after the council presents the ordinance, tax levy, or appropriation to the mayor, with a statement explaining the mayor's objections.
- (3) At its next meeting following a mayor's veto under Subsection (2), the council shall reconsider the vetoed ordinance, tax levy, or appropriation.
- (4) An ordinance, tax levy, or appropriation passed by the council takes effect upon recording as provided in Chapter 3, Part 7, Municipal Ordinances, Resolutions, and Procedure, if:
- (a) the mayor signs the ordinance, tax levy, or appropriation;
- (b) the mayor fails to sign the ordinance, tax levy, or appropriation within 15 days after the council presents the ordinance, tax levy, or appropriation to the mayor; or
- (c) following a veto, the council reconsiders the ordinance, tax levy, or appropriation and passes it by a vote of at least two-thirds of all council members.

Enacted by Chapter 19, 2008 General Session

10-3b-205 Rules and regulations by municipal officers.

A municipal officer in a municipality operating under a council-mayor form of government may prescribe rules and regulations, not inconsistent with statute, municipal ordinance, or the merit plan.

Enacted by Chapter 19, 2008 General Session

Part 3
Six-Member Council Form of Municipal Government

10-3b-301 Municipal government powers vested in a six-member council.

The powers of municipal government in a municipality operating under the six-member council form of government are vested in a council consisting of six members, one of which is a mayor.

Enacted by Chapter 19, 2008 General Session

10-3b-302 Mayor in six-member council form of government -- Mayor pro tempore.

- (1) The mayor in a municipality operating under a six-member council form of municipal government:
 - (a) is, except as provided in Subsection (1)(b), a nonvoting member of the council;
 - (b) votes as a voting member of the council:
 - (i) on each matter for which there is a tie vote of the other council members present at a council meeting; or
 - (ii) when the council is voting on:
 - (A) whether to appoint or dismiss a municipal manager; or
 - (B) an ordinance that enlarges or restricts the mayor's powers, duties, or functions;
 - (c) is the chair of the council and presides at all council meetings;
 - (d) exercises ceremonial functions for the municipality;
 - (e) may not veto an ordinance, tax levy, or appropriation passed by the council;
 - (f) except as modified by ordinance under Subsection 10-3b-303(2), has the powers and duties described in Section 10-3b-104; and
 - (g) may, within budget constraints, appoint one or more administrative assistants to the mayor.
- (2)
 - (a) If the mayor is absent or unable or refuses to act, the council may elect a member of the council as mayor pro tempore, to:
 - (i) preside at a council meeting; and
 - (ii) perform, during the mayor's absence, disability, or refusal to act, the duties and functions of mayor.
 - (b) The municipal clerk or recorder shall enter in the minutes of the council meeting the election of a council member as mayor pro tempore under Subsection (2)(a).

Enacted by Chapter 19, 2008 General Session

10-3b-303 Council in six-member council form of government.

- (1) The council in a municipality operating under a six-member council form of government:
 - (a) exercises any executive or administrative power and performs or supervises the performance of any executive or administrative duty or function that:
 - (i) has not been given to the mayor under Section 10-3b-104; or
 - (ii) has been given to the mayor under Section 10-3b-104 but is removed from the mayor under Subsection (1)(b)(i)(A);
 - (b) may:
 - (i) subject to Subsections (1)(c) and (2), adopt an ordinance:
 - (A) removing from the mayor any power, duty, or function of the mayor under Section 10-3b-104; or
 - (B) reinstating to the mayor any power, duty, or function previously removed under Subsection (1)(b)(i)(A);
 - (ii) adopt an ordinance delegating to the mayor any executive or administrative power, duty, or function that the council has under Subsection (1)(a);
 - (iii) subject to Subsection 10-3b-302(1)(b)(ii)(A):
 - (A) appoint, subject to Subsections (3) and (4), a manager to perform executive and administrative duties or functions that the council by ordinance delegates to the manager, subject to Subsection (1)(c); and
 - (B) dismiss a manager appointed under Subsection (1)(b)(iii)(A); and
 - (iv) assign any or all council members, including the mayor, to supervise one or more administrative departments of the municipality; and

- (c) may not remove from the mayor or delegate to a manager appointed by the council:
 - (i) any of the mayor's legislative or judicial powers or ceremonial functions;
 - (ii) the mayor's position as chair of the council; or
 - (iii) any ex officio position that the mayor holds.
- (2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to the mayor a power, duty, or function provided for in Section 10-3b-104 requires the affirmative vote of:
 - (a) the mayor and a majority of all other council members; or
 - (b) all council members except the mayor.
- (3)
 - (a) As used in this Subsection (3), "interim vacancy period" means the period of time that:
 - (i) begins on the day on which a municipal general election described in Section 10-3-201 is held to elect a council member; and
 - (ii) ends on the day on which the council member-elect begins the council member's term.
 - (b)
 - (i) The council may not appoint a manager during an interim vacancy period.
 - (ii) Notwithstanding Subsection (3)(b)(i):
 - (A) the council may appoint an interim manager during an interim vacancy period; and
 - (B) the interim manager's term shall expire once a new manager is appointed by the new administration after the interim vacancy period has ended.
 - (c) Subsection (3)(b) does not apply if all the council members who held office on the day of the municipal general election whose term of office was vacant for the election are re-elected to the council for the following term.
- (4) A council that appoints a manager in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the manager.

Amended by Chapter 209, 2011 General Session

Part 4

Five-Member Council Form of Municipal Government

10-3b-401 Municipal government powers vested in a five-member council.

The powers of municipal government in a municipality operating under the five-member council form of municipal government are vested in a council consisting of five members, one of which is a mayor.

Enacted by Chapter 19, 2008 General Session

10-3b-402 Mayor in a five-member council form of government.

- (1) The mayor in a municipality operating under a five-member council form of municipal government:
 - (a) is a regular and voting member of the council;
 - (b) is the chair of the council and presides at all council meetings;
 - (c) exercises ceremonial functions for the municipality;
 - (d) may not veto any ordinance, tax levy, or appropriation passed by the council; and

- (e) except as modified by ordinance under Subsection 10-3b-403(2), has the powers and duties described in Section 10-3b-104.
- (2)
 - (a) If the mayor is absent or unable or refuses to act, the council may elect a member of the council as mayor pro tempore, to:
 - (i) preside at a council meeting; and
 - (ii) perform, during the mayor's absence, disability, or refusal to act, the duties and functions of mayor.
 - (b) The municipal clerk or recorder shall enter in the minutes of the council meeting the election of a council member as mayor pro tempore under Subsection (2)(a).

Enacted by Chapter 19, 2008 General Session

10-3b-403 Council in a five-member council form of government.

- (1) The council in a municipality operating under a five-member council form of municipal government:
 - (a) exercises any executive or administrative power and performs or supervises the performance of any executive or administrative duty or function that:
 - (i) has not been given to the mayor under Section 10-3b-104; or
 - (ii) has been given to the mayor under Section 10-3b-104 but is removed from the mayor under Subsection (1)(b)(i)(A);
 - (b) may:
 - (i) subject to Subsections (1)(c) and (2), adopt an ordinance:
 - (A) removing from the mayor any power, duty, or function of the mayor under Section 10-3b-104; and
 - (B) reinstating to the mayor any power, duty, or function previously removed under Subsection (1)(b)(i)(A);
 - (ii) adopt an ordinance delegating to the mayor any executive or administrative power, duty, or function that the council has under Subsection (1)(a);
 - (iii) subject to Subsections (3) and (4), appoint a manager to perform executive and administrative duties or functions that the council by ordinance delegates to the manager, subject to Subsection (1)(c);
 - (iv) dismiss a manager appointed under Subsection (1)(b)(iii); and
 - (v) assign any or all council members, including the mayor, to supervise one or more administrative departments of the municipality; and
 - (c) may not remove from the mayor or delegate to a manager appointed by the council:
 - (i) any of the mayor's legislative or judicial powers or ceremonial functions;
 - (ii) the mayor's position as chair of the council; or
 - (iii) any ex officio position that the mayor holds.
- (2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to the mayor a power, duty, or function provided for in Section 10-3b-104 requires the affirmative vote of:
 - (a) the mayor and a majority of all other council members; or
 - (b) all council members except the mayor.
- (3)
 - (a) As used in this Subsection (3), "interim vacancy period" means the period of time that:
 - (i) begins on the day on which a municipal general election described in Section 10-3-201 is held to elect a council member; and
 - (ii) ends on the day on which the council member-elect begins the council member's term.

- (b)
 - (i) The council may not appoint a manager during an interim vacancy period.
 - (ii) Notwithstanding Subsection (3)(b)(i):
 - (A) the council may appoint an interim manager during an interim vacancy period; and
 - (B) the interim manager's term shall expire once a new manager is appointed by the new administration after the interim vacancy period has ended.
- (c) Subsection (3)(b) does not apply if all the council members who held office on the day of the municipal general election whose term of office was vacant for the election are re-elected to the council for the following term.
- (4) A council that appoints a manager in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the manager.

Amended by Chapter 209, 2011 General Session

Part 5

Metro Township Council Form of Municipal Government

10-3b-501 Metro township government powers vested in a five-member council.

The powers of municipal government in a metro township, as defined in Section 10-2a-403, are vested in a council consisting of five members, one of which is the chair.

Repealed and Re-enacted by Chapter 352, 2015 General Session

10-3b-502 Governance of metro townships that are not in a municipal services district.

For a metro township in which the voters at an election held in accordance with Section 10-2a-404 do not choose a metro township with limited municipal powers that is included in a municipal services district:

- (1)
 - (a) the council:
 - (i) has the same powers, authority, and duties as a council described in Section 10-3b-403; and
 - (ii) is not subject to Section 10-3b-504; and
 - (b) the chair:
 - (i) has the same powers, authority, and duties as a mayor described in Section 10-3b-402; and
 - (ii) is not subject to Section 10-3b-503.

Repealed and Re-enacted by Chapter 352, 2015 General Session

10-3b-503 Chair in a metro township included in a municipal services district.

- (1) The chair in a metro township that is included in a municipal services district:
 - (a) is a regular and voting member of the council;
 - (b) is elected by the members of the council from among the council members;
 - (c) is the chair of the council and presides at all council meetings;
 - (d) exercises ceremonial functions for the municipality;
 - (e) may not veto any ordinance, resolution, tax levy passed, or any other action taken by the council;

- (f) represents the metro township on the board of a municipal services district; and
 - (g) has other powers and duties described in this section and otherwise authorized by law except as modified by ordinance under Subsection 10-3b-504(2).
- (2) Except as provided in Subsection (3), the chair in a metro township that is included in a municipal services district:
- (a) shall:
 - (i) keep the peace and enforce the laws of the metro township;
 - (ii) ensure that all applicable statutes and metro township ordinances and resolutions are faithfully executed and observed;
 - (iii) if the chair remits a fine or forfeiture under Subsection (2)(g)(ii), report the remittance to the council at the council's next meeting after the remittance;
 - (iv) perform all duties prescribed by statute or metro township ordinance or resolution;
 - (v) report to the council the condition and needs of the metro township;
 - (vi) report to the council any release granted under Subsection (2)(b)(iv); and
 - (b) may:
 - (i) recommend for council consideration any measure that the chair considers to be in the best interests of the municipality;
 - (ii) remit fines and forfeitures;
 - (iii) if necessary, call on residents of the municipality over the age of 21 years to assist in enforcing the laws of the state and ordinances of the municipality;
 - (iv) release a person imprisoned for a violation of a municipal ordinance;
 - (v) with the council's advice and consent appoint a person to fill a municipal office or a vacancy on a commission or committee of the municipality; and
 - (vi) at any reasonable time, examine and inspect the official books, papers, records, or documents of:
 - (A) the municipality; or
 - (B) any officer, employee, or agency of the municipality.
- (3) The powers and duties in Subsection (1) are subject to the council's authority to limit or expand the chair's powers and duties under Subsection 10-3b-504(2).
- (4)
- (a) If the chair is absent, unable, or refuses to act, the council may elect a member of the council as chair pro tempore, to:
 - (i) preside at a council meeting; and
 - (ii) perform during the chair's absence, disability, or refusal to act, the duties and functions of chair.
 - (b) In accordance with Section 10-3c-203, the county clerk of the county in which the metro township is located shall enter in the minutes of the council meeting the election of a council member as chair under Subsection (1)(b) or chair pro tempore under Subsection (4)(a).

Repealed and Re-enacted by Chapter 352, 2015 General Session

10-3b-504 Council in a metro township that is included in a municipal services district.

- (1) The council in a metro township that is included in a municipal services district:
- (a) exercises any executive or administrative power and performs or supervises the performance of any executive or administrative power, duty, or function that has not been given to the chair under Section 10-3b-503 unless the council removes that power, duty, or function from the chair in accordance with Subsection (2);
 - (b) may:

- (i) subject to Subsections (1)(c) and (2), adopt an ordinance:
 - (A) removing from the chair any power, duty, or function of the chair; and
 - (B) reinstating to the chair any power, duty, or function previously removed under Subsection (1)(b)(i)(A); and
- (ii) adopt an ordinance delegating to the chair any executive or administrative power, duty, or function that the council has under Subsection (1)(a); and
- (c) may not remove from the chair or delegate:
 - (i) any of the chair's legislative or judicial powers or ceremonial functions;
 - (ii) the chair's position as chair of the council; or
 - (iii) any ex officio position that the chair holds.
- (2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to the chair a power, duty, or function provided for in Section 10-3b-503 requires the affirmative vote of:
 - (a) the chair and a majority of all other council members; or
 - (b) all council members except the chair.
- (3) The metro township council of a metro township that is included in a municipal services district:
 - (a) shall:
 - (i) by ordinance, provide for the manner in which a subdivision is approved, disapproved, or otherwise regulated;
 - (ii) review municipal administration, and, subject to Subsection (5), pass ordinances;
 - (iii) perform all duties that the law imposes on the council; and
 - (iv) elect one of its members to be chair of the metro township and the chair of the council;
 - (b) may:
 - (i)
 - (A) notwithstanding Subsection (3)(c), appoint a committee of council members or citizens to conduct an investigation into an officer, department, or agency of the municipality, or any other matter relating to the welfare of the municipality; and
 - (B) delegate to an appointed committee powers of inquiry that the council considers necessary;
 - (ii) make and enforce any additional rule or regulation for the government of the council, the preservation of order, and the transaction of the council's business that the council considers necessary; and
 - (iii) subject to the limitations provided in Subsection (5), take any action allowed under Section 10-8-84 that is reasonably related to the safety, health, morals, and welfare of the metro township inhabitants; and
 - (c) may not:
 - (i) direct or request, other than in writing, the appointment of a person to or the removal of a person from an executive municipal office;
 - (ii) interfere in any way with an executive officer's performance of the officer's duties; or
 - (iii) publicly or privately give orders to a subordinate of the chair.
- (4) A member of a metro township council as described in this section may not have any other compensated employment with the metro township.
- (5) The council of a metro township that is included in a municipal services district may not adopt an ordinance or resolution that authorizes, provides, or otherwise governs a municipal service, as defined in Section 17B-2a-1102, that is provided by a municipal services district created under Title 17B, Chapter 2a, Part 11, Municipal Services District Act.

Repealed and Re-enacted by Chapter 352, 2015 General Session

Part 6

Changing to Another Form of Municipal Government

10-3b-601 Authority to change to another form of municipal government.

- (1) As provided in this part, a municipality may change from the form of government under which it operates to:
 - (a) the council-mayor form of government with a five-member council;
 - (b) the council-mayor form of government with a seven-member council;
 - (c) the six-member council form of government; or
 - (d) the five-member council form of government.
- (2)
 - (a) A metro township that changes from the metro township council form of government to a form described in Subsection (1):
 - (i) is no longer a metro township; and
 - (ii) subject to Subsection (2)(b), is a city or town and operates as and has the authority of a city or town.
 - (b) If a metro township with a population that qualifies as a town in accordance with Section 10-2-301 changes the metro township's form of government in accordance with this part, the metro township may only change to the five-member council form of government.
- (3) A municipality other than a metro township may not operate under the metro township council form of government.

Enacted by Chapter 352, 2015 General Session

10-3b-602 Voter approval required for a change in the form of government.

A municipality may not change its form of government under this part unless voters of the municipality approve the change at an election held for that purpose.

Enacted by Chapter 352, 2015 General Session

10-3b-603 Resolution or petition proposing a change in the form of government.

- (1) The process to change the form of government under which a municipality operates is initiated by:
 - (a) the council's adoption of a resolution proposing a change; or
 - (b) the filing of a petition, as provided in Title 20A, Chapter 7, Part 5, Local Initiatives - Procedures, proposing a change.
- (2) Within 45 days after the adoption of a resolution under Subsection (1)(a) or the declaring of a petition filed under Subsection (1)(b) as sufficient under Section 20A-7-507, the council shall hold at least two public hearings on the proposed change.
- (3)
 - (a) Except as provided in Subsection (3)(b), the council shall hold an election on the proposed change in the form of government at the next municipal general election or regular general election that is more than 75 days after, as the case may be:
 - (i) a resolution under Subsection (1)(a) is adopted; or
 - (ii) a petition filed under Subsection (1)(b) is declared sufficient under Section 20A-7-507.

- (b) Notwithstanding Subsection (3)(a), an election on a proposed change in the form of government may not be held if:
 - (i) in the case of a proposed change initiated by the council's adoption of a resolution under Subsection (1)(a), the council rescinds the resolution within 60 days after adopting it; or
 - (ii) in the case of a proposed change initiated by a petition under Subsection (1)(b), enough signatures are withdrawn from the petition within 60 days after the petition is declared sufficient under Section 20A-7-507 that the petition is no longer sufficient.
- (4) Each resolution adopted under Subsection (1)(a) or petition filed under Subsection (1)(b) shall:
 - (a) state the method of election and initial terms of council members; and
 - (b) specify the boundaries of districts substantially equal in population, if some or all council members are to be elected by district.
- (5) A resolution under Subsection (1)(a) or petition under Subsection (1)(b) proposing a change to a council-mayor form of government may require that, if the change is adopted, the mayor appoint, with the council's advice and consent and subject to Section 10-3b-202, a chief administrative officer, to exercise the administrative powers and perform the duties that the mayor prescribes.

Enacted by Chapter 352, 2015 General Session

10-3b-604 Limitations on adoption of a resolution and filing of a petition.

A resolution may not be adopted under Subsection 10-3b-603(1)(a) and a petition may not be filed under Subsection 10-3b-603(1)(b) within:

- (1) four years after an election at which voters reject a proposal to change the municipality's form of government, if the resolution or petition proposes changing to the same form of government that voters rejected at the election; or
- (2) four years after the effective date of a change in the form of municipal government or an incorporation as a municipality.

Enacted by Chapter 352, 2015 General Session

10-3b-605 Ballot form.

The ballot at an election on a proposal to change the municipality's form of government shall:

- (1) state the ballot question substantially as follows: "Shall [state the municipality's name], Utah, change its form of government to the [state "council-mayor form, with a five-member council," "council-mayor form, with a seven-member council," "six-member council form," or "five-member council form," as applicable]?"; and
- (2) provide a space or method for the voter to vote "yes" or "no."

Enacted by Chapter 352, 2015 General Session

10-3b-606 Election of officers after a change in the form of government.

- (1) If voters approve a proposal to change the municipality's form of government at an election held as provided in this part, an election of officers under the new form of government shall be held on the municipal general election date following the election at which voters approve the proposal.
- (2) If a municipality changes its form of government under this part resulting in the elimination of an elected official's position, the municipality shall continue to pay that official at the same rate

until the date on which the official's term would have expired, unless under the new form of government the official holds municipal office for which the official is regularly compensated.

- (3) A council member whose term has not expired at the time the municipality changes its form of government under this part may, at the council member's option, continue to serve as a council member under the new form of government for the remainder of the member's term.
- (4) The term of the mayor and each council member is four years or until a successor is qualified, except that approximately half of the initial council members, chosen by lot, shall serve a term of two years or until a successor is qualified.

Enacted by Chapter 352, 2015 General Session

10-3b-607 Effective date of change in the form of government.

A change in the form of government under this chapter takes effect at noon on the first Monday of January next following the election of officers under Section 10-3b-606.

Enacted by Chapter 352, 2015 General Session

Chapter 3c Administration of Metro Townships

Part 1 General Provisions

10-3c-101 Title.

- (1) This chapter is known as "Administration of Metro Townships."
- (2) This part is known as "General Provisions."

Enacted by Chapter 352, 2015 General Session

10-3c-102 Definitions.

As used in this chapter:

- (1) "Municipal services district" means a local district created in accordance with Title 17B, Chapter 2a, Part 11, Municipal Services District Act.
- (2) "Metro township" means a metro township incorporated in accordance with Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015.

Enacted by Chapter 352, 2015 General Session

10-3c-103 Status and powers.

A metro township:

- (1) is:
 - (a) a body corporate and politic with perpetual succession;
 - (b) a quasi-municipal corporation; and
 - (c) a political subdivision of the state; and

(2) may sue and be sued.

Enacted by Chapter 352, 2015 General Session

Part 2

Administration of Metro Township

10-3c-201 Title.

This part is known as "Administration of Metro Township."

Enacted by Chapter 352, 2015 General Session

10-3c-202 Budget.

A metro township is subject to and shall comply with Chapter 6, Uniform Fiscal Procedures Act for Utah Cities.

Enacted by Chapter 352, 2015 General Session

10-3c-203 Administrative and operational services -- Staff provided by county or municipal services district.

(1)

- (a) The following officials elected or appointed, or persons employed by, the county in which a municipality township is located shall, for the purposes of interpreting and complying with applicable law, fulfill the responsibilities and hold the following metro township offices or positions:
 - (i) the county treasurer shall fulfill the duties and hold the powers of treasurer for the metro township;
 - (ii) the county clerk shall fulfill the duties and hold the powers of recorder and clerk for the metro township;
 - (iii) the county surveyor shall fulfill, on behalf of the metro township, all surveyor duties imposed by law;
 - (iv) the county engineer shall fulfill the duties and hold the powers of engineer for the metro township;
 - (v) the district attorney shall provide legal counsel to the metro township; and
 - (vi) subject to Subsection (1)(b), the county auditor shall fulfill the duties and hold the powers of auditor for the metro township.

(b)

- (i) The county auditor shall fulfill the duties and hold the powers of auditor for the metro township to the extent that the county auditor's powers and duties are described in and delegated to the county auditor in accordance with Title 17, Chapter 19a, County Auditor, and a municipal auditor's powers and duties described in this title are the same.
- (ii) Notwithstanding Subsection (1)(b), in a metro township, services described in Sections 17-19a-203, 17-19a-204, and 17-19a-205, and services other than those described in Subsection (1)(b)(i) that are provided by a municipal auditor in accordance with this title that are required by law, shall be performed by county staff other than the county auditor.

(2)

- (a) Nothing in Subsection (1) may be construed to relieve an official described in Subsections (1)(a)(i) through (iv) of a duty to either the county or metro township or a duty to fulfill that official's position as required by law.
- (b) Notwithstanding Subsection (2)(a), an official or the official's deputy or other person described in Subsections (1)(a)(i) through (iv):
 - (i) is elected, appointed, or otherwise employed, in accordance with the provisions of Title 17, Counties, as applicable to that official's or person's county office;
 - (ii) is paid a salary and benefits and subject to employment discipline in accordance with the provisions of Title 17, Counties, as applicable to that official's or person's county office;
 - (iii) is not subject to:
 - (A) Chapter 3, Part 11, Personnel Rules and Benefits; or
 - (B) Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act; and
 - (iv) is not required to provide a bond for the applicable municipal office if a bond for the office is required by this title.
- (3) The metro township may establish a planning commission in accordance with Section 10-9a-301 and an appeal authority in accordance with Section 10-9a-701.
- (4) A municipal services district established in accordance with Title 17B, Chapter 2a, Part 11, Municipal Services District Act, and of which the metro township is a part, may provide staff to the metro township planning commission and appeal authority.
- (5)
 - (a) This section applies only to a metro township in which:
 - (i) the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district and has limited municipal powers; or
 - (ii) the metro township subsequently joins a municipal services district.
 - (b) This section does not apply to a metro township described in Subsection (5)(a) if the municipal services district is dissolved.

Enacted by Chapter 352, 2015 General Session

10-3c-204 Taxing authority limited.

- (1) A metro township may not impose:
 - (a) a municipal energy sales and use tax as described in Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or
 - (b) a municipal telecommunication's license tax as described in Chapter 1, Part 4, Municipal Telecommunications License Tax Act.
- (2)
 - (a) If the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district and has limited municipal powers, or a metro township subsequently joins a municipal services district, the metro township may not levy or impose a tax unless the Legislature expressly provides that the metro township may levy or impose the tax.
 - (b) Subsection (2)(a) does not apply if a municipal services district is dissolved.

Enacted by Chapter 352, 2015 General Session

10-3c-205 Fees.

- (1) A metro township may impose a fine, fee, or charge.

- (2) For a metro township of which the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district and has limited municipal powers, or if a metro township subsequently joins a municipal services district, the municipal services district of which a metro township is a part shall, upon request by the metro township, collect on behalf of the metro township all fines, fees, charges, levies, and other payments imposed by the metro township.

Enacted by Chapter 352, 2015 General Session

Chapter 5

Uniform Fiscal Procedures Act for Utah Towns

10-5-101 Short title.

This chapter shall be known and may be cited as the "Uniform Fiscal Procedures Act for Utah Towns."

Enacted by Chapter 34, 1983 General Session

10-5-102 Applicability.

This chapter shall apply to all:

- (1) towns; and
- (2) metro townships of the second class to the same extent as a town.

Amended by Chapter 352, 2015 General Session

10-5-102.5 Definitions.

As used in this chapter:

- (1) "Enterprise fund" means a fund as defined by the Governmental Accounting Standards Board that is used by a municipality to report an activity for which a fee is charged to users for goods or services.
- (2) "Fund" is as defined by the Governmental Accounting Standards Board as reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office of the Utah State Auditor.
- (3) "General fund" is as defined by the Governmental Accounting Standards Board as reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office of the Utah State Auditor.
- (4) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment.
- (5) "Town general fund" means the general fund used by a town.
- (6) "Utility" means a utility owned by a town, in whole or in part, that provides electricity, gas, water, or sewer, or any combination of them.

Enacted by Chapter 176, 2014 General Session

Enacted by Chapter 253, 2014 General Session

Amended by Chapter 253, 2014 General Session, (Coordination Clause)

Enacted by Chapter 377, 2014 General Session

10-5-103 Withholding state money of town failing to file budget.

The state auditor is authorized to withhold state money allocated to a town if that town fails to file a copy of a formally adopted budget or fails to comply with the annual financial reporting and independent auditing requirements of this chapter. Such money may not be withheld if the town substantially complies with the requirements of this chapter.

Amended by Chapter 378, 2010 General Session

10-5-104 Fiscal year.

The fiscal year of all towns shall begin July 1 of each year and shall end June 30 of the following year.

Enacted by Chapter 34, 1983 General Session

10-5-105 Revenue and expenditure records.

Towns shall record their revenues and expenditures according to current generally accepted accounting principles prescribed by the state auditor.

Enacted by Chapter 34, 1983 General Session

10-5-106 Funds for which budget prepared.

The mayor shall prepare for each budget year a budget for:

- (1) the town general fund, including state allocated road funds;
- (2) special revenue funds;
- (3) debt service funds;
- (4) capital improvement funds; and
- (5) enterprise funds.

Amended by Chapter 176, 2014 General Session

10-5-107 Tentative budgets required for public inspection -- Contents -- Adoption of tentative budget.

- (1)
 - (a) On or before the first regularly scheduled town council meeting of May, the mayor shall:
 - (i) prepare for the ensuing year, on forms provided by the state auditor, a tentative budget for each fund for which a budget is required;
 - (ii) make the tentative budget available for public inspection; and
 - (iii) submit the tentative budget to the town council.
 - (b) The tentative budget of each fund shall set forth in tabular form:
 - (i) actual revenues and expenditures in the last completed fiscal year;
 - (ii) estimated total revenues and expenditures for the current fiscal year; and
 - (iii) the mayor's estimates of revenues and expenditures for the budget year.
- (2)
 - (a) The mayor shall:
 - (i) estimate the amount of revenue available to serve the needs of each fund;
 - (ii) estimate the portion to be derived from all sources other than general property taxes; and
 - (iii) estimate the portion that shall be derived from general property taxes.

- (b) From the estimates required by Subsection (2)(a), the mayor shall compute and disclose in the budget the lowest rate of property tax levy that will raise the required amount of revenue, calculating the levy on the latest taxable value.
- (3) A governing body may spend or transfer money deposited in an enterprise fund for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created, if the governing body:
 - (a) transfers the money from the enterprise fund to another fund; and
 - (b) complies with the hearing and notice requirements of Subsections (5)(a), (b), and (c).
- (4)
 - (a) Before the public hearing required under Section 10-5-108, the town council:
 - (i) shall review, consider, and tentatively adopt the tentative budget in any regular meeting or special meeting called for that purpose; and
 - (ii) may amend or revise the tentative budget.
 - (b) At the meeting at which the town council adopts the tentative budget, the council shall establish the time and place of the public hearing required under Section 10-5-108.
- (5)
 - (a) Except as provided in Subsection (5)(d), if a town council includes in a tentative budget, or an amendment to a budget, allocations or transfers from an enterprise fund to another fund for a good, service, project, venture, or purpose other than reasonable allocations of costs between the enterprise fund and the other fund, the governing body shall:
 - (i) hold a public hearing;
 - (ii) prepare a written notice of the date, time, place, and purpose of the hearing as described in Subsection (5)(b); and
 - (iii) subject to Subsection (5)(c), mail the notice to each enterprise fund customer at least seven days before the day of the hearing.
 - (b) The purpose portion of the written notice shall identify:
 - (i) the enterprise fund from which money is being allocated or transferred;
 - (ii) the amount being allocated or transferred; and
 - (iii) the fund to which the money is being allocated or transferred.
 - (c) The town council:
 - (i) may print the written notice required under Subsection (5)(a)(ii) on the enterprise fund customer's bill; and
 - (ii) shall include the written notice required under Subsection (5)(a)(ii) as separate notification mailed or transmitted with the enterprise fund customer's bill.
 - (d) A governing body is not required to repeat the notice and hearing requirements in this Subsection (5) if the funds to be allocated or transferred for the current year were previously approved by the governing body during the current year and at a public hearing that complies with the notice and hearing requirements of this Subsection (5).

Amended by Chapter 377, 2014 General Session

10-5-108 Budget hearing -- Notice -- Adjustments.

- (1) Prior to the adoption of the final budget or an amendment to a budget, a town council shall hold a public hearing to receive public comment.
- (2) The town council shall provide notice of the place, purpose, and time of the public hearing by publishing notice at least seven days before the hearing:
 - (a)
 - (i) at least once in a newspaper of general circulation in the town; or

- (ii) if there is no newspaper of general circulation, then by posting the notice in three public places at least 48 hours prior to the hearing; and
 - (b) on the Utah Public Notice Website created in Section 63F-1-701.
- (3) After the hearing, the town council, subject to Section 10-5-110, may adjust expenditures and revenues in conformity with this chapter.

Amended by Chapter 90, 2010 General Session
Amended by Chapter 116, 2010 General Session

10-5-109 Adoption of budgets -- Filing.

Prior to June 22 of each year, or August 17 in the case of a property tax increase under Sections 59-2-919 through 59-2-923, the council shall by resolution or ordinance adopt a budget for the ensuing fiscal year for each fund for which a budget is required under this chapter. A copy of the final budget for each fund shall be filed with the state auditor within 30 days after adoption.

Amended by Chapter 118, 1989 General Session

10-5-110 Budgets effective for year -- Amendment -- Public access.

On final adoption, each budget shall be in effect for the budget year, subject to later amendment. A copy of each adopted budget shall be available to the public during regular business hours.

Enacted by Chapter 34, 1983 General Session

10-5-111 Basis for property tax levy.

From the effective date of the budget or of any amendment enacted prior to the date on which property taxes are levied, the amount stated therein as the amount of estimated revenue from property taxes shall constitute the basis for determining the property tax levy to be set by the council for the corresponding tax year, subject to the applicable limitations imposed by law.

Enacted by Chapter 34, 1983 General Session

10-5-112 Property tax levy set by ordinance -- Maximum -- Certification.

- (1) Not later than June 22 of each year, or August 17 in the case of a property tax increase under Sections 59-2-919 through 59-2-923, the council, at a regular meeting or special meeting called for that purpose, shall by ordinance or resolution set the real and personal property tax levy for town purposes, but the levy may be set at an appropriate later date with the approval of the State Tax Commission.
- (2) The combined levies for each town, for all purposes in any year, excluding the retirement of general obligation bonds and the payment of any interest, and taxes expressly authorized by law to be levied in addition, may not exceed .007 per dollar of taxable value of taxable property.
- (3) The town clerk shall certify the ordinance or resolution setting the levy to the county auditor, or auditors, if the town is located in more than one county, not later than June 22 of each year.

Amended by Chapter 118, 1989 General Session

10-5-113 Accumulation of retained earnings or fund balance -- Limit as to general fund -- Reserve for capital improvements.

- (1) A town may accumulate retained earnings or fund balances, as appropriate, in any fund.
- (2) The accumulation of a fund balance in the town general fund may not exceed 75% of the total revenue of the town general fund for the current fiscal period.
- (3)
 - (a) The town council may, in a budget year, appropriate from estimated revenue or excess fund balance in the town general fund to a reserve for capital improvements:
 - (i) for the purpose of financing future specified capital improvements; and
 - (ii) in accordance with a formal long-range capital plan adopted by the governing body.
 - (b) The reserves described in Subsection (3)(a) may accumulate from year to year in a capital improvements fund until the accumulated total is sufficient to permit economical expenditure for the specified purposes.

Amended by Chapter 176, 2014 General Session

10-5-114 Appropriations limited to estimated revenue.

The council may not make any appropriation in the final budget of any fund in excess of the estimated expendable revenue for the budget year of such fund.

Amended by Chapter 378, 2010 General Session

10-5-115 Expenditures limited to appropriations -- Obligations in excess invalid -- Processing claims required.

Town officers may not make or incur expenditures or encumbrances in excess of total appropriations for any department in the budget as adopted or as subsequently amended. Any obligation contracted by any such officer may not be or become valid or enforceable against the town. No check or warrant to cover any claim against any appropriation shall be drawn until the claim has been processed as provided by this chapter.

Amended by Chapter 378, 2010 General Session

10-5-116 Transfer of unencumbered appropriation balance.

The council may reduce or transfer any unencumbered or unexpended appropriation balance or portion thereof from one department in a fund to another within the same fund, but no appropriation for debt retirement and interest, reduction of deficit, or other appropriation required by law or ordinance shall be reduced below the minimums required.

Enacted by Chapter 34, 1983 General Session

10-5-117 Increasing budget total of fund.

Except for enterprise funds, which may be increased without a public hearing, the council may increase the budget total of one or more of these funds by following the procedures set forth in Section 10-5-108.

Amended by Chapter 181, 1986 General Session

10-5-118 Emergency expenditures.

- (1) If the town council determines that an emergency exists, such as widespread damage from fire, flood, or earthquake, and that the emergency necessitates the expenditure of money in excess

of the budget of the town general fund, the council may amend the budget and authorize expenditures that are reasonably necessary to meet the emergency.

- (2) Except to the extent provided for in Title 53, Chapter 2a, Part 6, Disaster Recovery Funding Act, a town council may not expend money in the town's local fund for an emergency, if the town creates a local fund under Title 53, Chapter 2a, Part 6, Disaster Recovery Funding Act.

Amended by Chapter 176, 2014 General Session

10-5-119 Special fund balance -- Disposition when fund no longer required.

If the purpose for which a special fund was created no longer exists, and a balance remains in the fund, the town council shall authorize the transfer of the balance to the fund balance account in the town general fund, subject to all of the following:

- (1) Any balance remaining in a special assessment fund and any unrequired balance in the town's special improvements guaranty fund shall be treated in the manner provided in Sections 11-42-413 and 11-42-701.
- (2) Any balance remaining in a capital improvements or capital projects fund shall be transferred to:
- (a) the appropriate debt service fund or other fund as required by the bond ordinance; or
 - (b) to the fund balance account in the town general fund.
- (3)
- (a) If the town council proposes to transfer a balance held in a trust fund for a specific purpose, other than a cemetery perpetual care trust fund, because the trust fund's original purpose or restriction has ceased to exist, the town council shall hold a public hearing in accordance with Sections 10-5-108 and 10-5-109.
 - (b) In addition to the notice requirements of Section 10-5-108, the published notice shall invite original contributors who contributed to the fund to appear at the hearing.
 - (c)
 - (i) If the town council determines that the fund balance amounts are refundable to the original fund contributors, the original contributors shall have 30 days after the day on which the hearing in Subsection (3)(a) is held to file with the council a verified claim only for the amount of each original contributor's contribution.
 - (ii) Any claim not filed in accordance with this section is invalid and barred.
 - (d) Any balance remaining, after refunds to eligible original contributors, shall be transferred to the fund balance account in the town general fund.
- (4)
- (a) If the town council decides, in accordance with applicable laws and ordinances, that the need for continued maintenance of its cemetery perpetual care trust fund no longer exists, the council may, subject to Subsection (4)(b), transfer the balance in the cemetery perpetual care trust fund to the capital improvements fund.
 - (b) The balance transferred from the cemetery perpetual care trust fund to the capital improvements fund shall be used for cemetery purposes only, including land, buildings, or major improvements.

Amended by Chapter 176, 2014 General Session

10-5-120 Loans between funds -- Bonds purchased by funds.

- (1) Subject to this section, restrictions imposed by bond ordinance, or other controlling regulations, the town council may:

- (a) subject to the restrictions in Section 53-2a-605, authorize an interfund loan from one fund to another; and
 - (b) with available cash in any fund, purchase or otherwise acquire for investment an unmatured bond of the town or of any fund of the town.
- (2) An interfund loan under Subsection (1)(a) shall be in writing and specify the terms and conditions of the loan, including the:
- (a) effective date of the loan;
 - (b) name of the fund loaning the money;
 - (c) name of the fund receiving the money;
 - (d) amount of the loan;
 - (e) subject to Subsection (3), term of and repayment schedule for the loan;
 - (f) subject to Subsection (4), interest rate of the loan;
 - (g) method of calculating interest applicable to the loan;
 - (h) procedures for:
 - (i) applying interest to the loan; and
 - (ii) paying interest on the loan; and
 - (i) other terms and conditions the town council determines applicable.
- (3) The term and repayment schedule specified under Subsection (2)(e) may not exceed 10 years.
- (4)
- (a) In determining the interest rate of the loan specified under Subsection (2)(f), the town council shall apply an interest rate that reflects the rate of potential gain had the funds been deposited or invested in a comparable investment.
 - (b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under Subsection (2)(f):
 - (i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less than the rate offered by the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or
 - (ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be less than the greater of the rate offered by:
 - (A) the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or
 - (B) a United States Treasury note of a comparable term.
- (5)
- (a) For an interfund loan under Subsection (1)(a), the town council shall:
 - (i) hold a public hearing;
 - (ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the proposed terms and conditions of the interfund loan under Subsection (2);
 - (iii) provide notice of the public hearing in the same manner as required under Subsection 10-5-108(2) as if the hearing were a budget hearing; and
 - (iv) authorize the interfund loan by ordinance or resolution in a public meeting.
 - (b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the interfund loan is included in an original budget or in a subsequent budget amendment previously approved by the town council for the current fiscal year.
- (6) Subsections (2) through (5) do not apply to an interfund loan if the interfund loan is:
- (a) a loan from the town general fund to any other fund of the town; or
 - (b) a short-term advance from the town's cash and investment pool to individual funds that are repaid by the end of the fiscal year.

Amended by Chapter 253, 2014 General Session

10-5-121 Records of council proceedings -- Clerk's records as evidence.

The town clerk shall attend the meetings and keep the record of the proceedings of the council. Copies of all papers filed in the clerk's office and transcripts from all records of the council, if certified by the clerk under the town seal are admissible in all courts as originals.

Enacted by Chapter 34, 1983 General Session

10-5-122 Signing and record of contracts by clerk.

The town clerk shall countersign all contracts made on behalf of the town and shall maintain an indexed record of all such contracts.

Enacted by Chapter 34, 1983 General Session

10-5-123 Fund records maintained -- Pre-audit of claims and demands -- Certifications on check copy -- Bids received and advertisement records -- Time for keeping.

- (1) Except to the extent that the town clerk's financial duties and responsibilities are performed by a director of finance appointed pursuant to a resolution or ordinance adopted under Subsection 10-6-157(1), the town clerk shall:
 - (a) maintain the general books for each fund of the town and all subsidiary records relating to each fund, including a list of the outstanding bonds, their purpose, amount, terms, date, and place payable; and
 - (b)
 - (i) pre-audit each claim and demand against the town before it is allowed;
 - (ii) prepare the necessary check in payment of the claim or demand; and
 - (iii) certify on the check copy that:
 - (A) the claim or demand has been pre-audited and documented;
 - (B) the claim or demand has been directly approved by the council;
 - (C) the claim or demand is within the lawful debt limit of the town; and
 - (D) the claim or demand does not overexpend the appropriate departmental budget established by the legislative body.
- (2) If a town is required by law to receive bids for purchases, construction, repairs, or any other purpose requiring the expenditure of funds, the town shall keep on file all bids received, together with proof of advertisement by publication or otherwise, for:
 - (a) at least three years following the letting of any contract pursuant to those bids; or
 - (b) three years following the first advertisement for the bids, if all bids pursuant to that advertisement are rejected.

Amended by Chapter 375, 2010 General Session

10-5-124 Warrants tendered for claims.

If the town is without funds on deposit in one of its appropriate bank accounts with which to pay any lawfully approved claim, the town clerk may draw and sign a warrant on the treasurer of the town for payment of the claim, the warrant to be tendered to the payee named thereon.

Enacted by Chapter 34, 1983 General Session

10-5-125 Treasurer -- Duties.

- (1) The town treasurer is custodian of all money, bonds, or other securities of the town.
- (2) The town treasurer shall:
 - (a) determine the cash requirements of the town and provide for the investment of all money by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act;
 - (b) receive all money payable to the town, within three business days after collection, including all taxes, licenses, fines, and intergovernmental revenue;
 - (c) keep an accurate detailed account of all money received under Subsection (2)(b) in the manner provided in this chapter and as directed by the town council by ordinance or resolution; and
 - (d) collect all special taxes and assessments as provided by law and ordinance.

Amended by Chapter 285, 1992 General Session

10-5-126 Receipts for payments to town -- Filing copies.

The town treasurer shall give or cause to be given to every person paying money to the town treasury, a receipt or other evidence of payment therefor, specifying, as appropriate, the date of payment and on which account the payment was made and shall file the duplicate of the receipt, a summary report, or other evidence of payment in the office of the clerk.

Enacted by Chapter 34, 1983 General Session

10-5-127 Signing of checks -- Determination of sufficiency of account.

The town treasurer, or in his absence a deputy treasurer appointed by the council, shall sign all checks prepared by the town clerk. Prior to affixing the signature, the treasurer or deputy treasurer shall determine that a sufficient amount is on deposit in the appropriate bank account of the town to honor the check. The council may also designate any town officer to countersign checks.

Enacted by Chapter 34, 1983 General Session

10-5-128 Deposit of town funds -- Commingling with personal funds prohibited -- Suspension from office for unauthorized use or profit from town funds.

The treasurer shall promptly deposit all town funds in the appropriate bank accounts of the town. It shall be unlawful for any person to commingle town funds with his or her own money. Whenever it shall appear that the treasurer or any officer is making profit out of public money, or is using the same for any purpose not authorized by law, such treasurer or officer shall be suspended from office.

Enacted by Chapter 34, 1983 General Session

10-5-129 Annual financial report.

- (1) Within 180 days after the close of each fiscal year the town clerk or other delegated person shall present to the council an annual financial report.
- (2) The requirement under Subsection (1) to present an annual financial report may be satisfied by an audit report or annual financial report of an independent auditor.

Amended by Chapter 323, 2009 General Session

10-5-131 Uniform accounting and reporting procedures -- Forms -- Instructions.

The state auditor, with the concurrence of the town fiscal committee, shall:

- (1) prescribe uniform accounting and reporting procedures for towns, in conformity with generally accepted accounting principles;
- (2) conduct a continuing review and modification of the procedures to improve them;
- (3) prepare and supply each town with suitable budget and reporting forms; and
- (4) prepare instructional materials, conduct training programs and render other services considered necessary to assist towns in implementing the uniform accounting, budgeting, and reporting procedures.

Amended by Chapter 30, 1992 General Session

10-5-132 Fees collected for construction approval.

- (1) As used in this section, "construction project" is as defined in Section 38-1a-102.
- (2) If a town collects a fee for the inspection of a construction project, the town shall ensure that the construction project receives a prompt inspection.
- (3) If a town cannot provide a building inspection within a reasonable time, the town shall promptly engage an independent inspector with fees collected from the applicant.

Enacted by Chapter 197, 2014 General Session

Chapter 6
Uniform Fiscal Procedures Act for Utah Cities

10-6-101 Short title.

This chapter shall be known and may be cited as the "Uniform Fiscal Procedures Act for Utah Cities."

Enacted by Chapter 26, 1979 General Session

10-6-102 Legislative intent -- Purpose of chapter.

This chapter is intended to provide uniform accounting, budgeting, and financial reporting procedures for cities. It is the purpose of this chapter to enable cities to make financial plans for both current and capital expenditures, to insure that their executive staffs administer their respective functions in accordance with adopted budgets, to provide the public and investors with information about the financial policies and administration of cities, to provide for the optional use of performance budgeting and related accounting and reporting procedures, and to enable larger cities to evaluate and measure operating performance and provide data comparable with other cities.

Enacted by Chapter 26, 1979 General Session

10-6-103 Applicability.

This chapter shall apply to all:

- (1) cities, including charter cities; and

- (2) metro townships of the first class to the same extent as a city.

Amended by Chapter 352, 2015 General Session

10-6-104 Withholding of state money from cities not filing budget or complying with reporting or auditing requirements.

- (1) The state auditor may withhold state money allocated to a city for its failure to file a copy of a formally adopted budget when required or its failure to comply substantially with the annual financial reporting or independent auditing requirements required under this chapter.
- (2) Upon the city's compliance with the requirement, the state auditor shall distribute the money to the city.

Amended by Chapter 300, 1999 General Session

10-6-105 Fiscal period -- Annual or biennial.

- (1) Except as provided in Subsection (2), the fiscal period for each city shall be an annual period beginning July 1 of each year and ending June 30 of the following year.
- (2)
 - (a) Notwithstanding Subsection (1), the legislative body of a city may, by ordinance, adopt for the city a fiscal period that is a biennial period beginning July 1 and ending June 30 of the second following calendar year.
 - (b) Each city adopting an ordinance under Subsection (2)(a) shall separately specify in its budget the amount of ad valorem property tax it intends to levy and collect during both the first half and the second half of the budget period.
 - (c) Each city that adopts a fiscal period that is a biennial period under Subsection (2)(a) shall:
 - (i) comply with Sections 59-2-912 through 59-2-926 as if it had adopted a fiscal period that is an annual period; and
 - (ii) allocate budgeted revenues and expenditures to each of the two annual periods in the biennial budget.
 - (d) The legislative body of each city that adopts a fiscal period that is a biennial period under Subsection (2)(a) shall, within 10 days after the adoption of the ordinance adopting the biennial period, deliver a copy of the ordinance to the state auditor.

Amended by Chapter 300, 1999 General Session

10-6-106 Definitions.

As used in this chapter:

- (1) "Account group" is defined by generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.
- (2) "Appropriation" means an allocation of money by the governing body for a specific purpose.
- (3)
 - (a) "Budget" means a plan of financial operations for a fiscal period which embodies estimates of proposed expenditures for given purposes and the proposed means of financing them.
 - (b) "Budget" may refer to the budget of a particular fund for which a budget is required by law or it may refer collectively to the budgets for all such funds.
- (4) "Budgetary fund" means a fund for which a budget is required.
- (5) "Budget officer" means the city auditor in a city of the first and second class, the mayor or some person appointed by the mayor with the approval of the city council in a city of the third,

- fourth, or fifth class, the mayor in the council-mayor optional form of government, or the person designated by the charter in a charter city.
- (6) "Budget period" means the fiscal period for which a budget is prepared.
 - (7) "Check" means an order in a specific amount drawn upon a depository by an authorized officer of a city.
 - (8) "City general fund" means the general fund used by a city.
 - (9) "Current period" means the fiscal period in which a budget is prepared and adopted, i.e., the fiscal period next preceding the budget period.
 - (10) "Department" means any functional unit within a fund that carries on a specific activity, such as a fire or police department within a city general fund.
 - (11) "Encumbrance system" means a method of budgetary control in which part of an appropriation is reserved to cover a specific expenditure by charging obligations, such as purchase orders, contracts, or salary commitments to an appropriation account at their time of origin. Such obligations cease to be encumbrances when paid or when the actual liability is entered on the city's books of account.
 - (12) "Enterprise fund" means a fund as defined by the Governmental Accounting Standards Board that is used by a municipality to report an activity for which a fee is charged to users for goods or services.
 - (13) "Estimated revenue" means the amount of revenue estimated to be received from all sources during the budget period in each fund for which a budget is being prepared.
 - (14) "Financial officer" means the mayor in the council-mayor optional form of government or the city official as authorized by Section 10-6-158.
 - (15) "Fiscal period" means the annual or biennial period for accounting for fiscal operations in each city.
 - (16) "Fund" is as defined by generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.
 - (17) "Fund balance," "retained earnings," and "deficit" have the meanings commonly accorded such terms under generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.
 - (18) "General fund" is as defined by the Governmental Accounting Standards Board as reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office of the Utah State Auditor.
 - (19) "Governing body" means a city council, or city commission, as the case may be, but the authority to make any appointment to any position created by this chapter is vested in the mayor in the council-mayor optional form of government.
 - (20) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment.
 - (21) "Last completed fiscal period" means the fiscal period next preceding the current period.
 - (22)
 - (a) "Public funds" means any money or payment collected or received by an officer or employee of the city acting in an official capacity and includes money or payment to the officer or employee for services or goods provided by the city, or the officer or employee while acting within the scope of employment or duty.
 - (b) "Public funds" does not include money or payments collected or received by an officer or employee of a city for charitable purposes if the mayor or city council has consented to the officer's or employee's participation in soliciting contributions for a charity.
 - (23) "Special fund" means any fund other than the city general fund.
 - (24) "Utility" means a utility owned by a city, in whole or in part, that provides electricity, gas, water, or sewer, or any combination of them.

(25) "Warrant" means an order drawn upon the city treasurer, in the absence of sufficient money in the city's depository, by an authorized officer of a city for the purpose of paying a specified amount out of the city treasury to the person named or to the bearer as money becomes available.

Amended by Chapter 176, 2014 General Session

Amended by Chapter 253, 2014 General Session

Amended by Chapter 253, 2014 General Session, (Coordination Clause)

Amended by Chapter 377, 2014 General Session

10-6-107 Uniform accounting system.

The accounting records of cities shall be established and maintained, and financial statements prepared from those records in conformance with generally accepted accounting principles promulgated from time to time by authoritative bodies in the United States. The state auditor shall prescribe in the Uniform Accounting Manual for Utah Cities a uniform system of accounting that conforms to generally accepted accounting principles. The state auditor shall maintain the manual so that it reflects current generally accepted accounting principles.

Amended by Chapter 52, 1981 General Session

10-6-108 Funds and account groups maintained.

Each city shall maintain, according to its own accounting needs, some or all of the funds and account groups in its system of accounts, as prescribed in the Uniform Accounting Manual for Utah Cities.

Enacted by Chapter 26, 1979 General Session

10-6-109 Budget required for certain funds -- Capital projects fund budget.

(1) The budget officer shall prepare for each budget period a budget for each of the following funds:

- (a) the city general fund, including the class "C" and collector road funds;
- (b) special revenue funds;
- (c) debt service funds; and
- (d) capital improvement funds.

- (2)
- (a) Major capital improvements financed by general obligation bonds, capital grants, or interfund transfers, shall use a capital projects fund budget.
 - (b) The term of the budget shall coincide with the term of the individual project or projects.
 - (c) To the extent appropriate, the requirements for preparation, adoption, and execution of the budgets of the funds enumerated in Subsection (1), as set forth in this chapter, shall apply to budgets of capital projects funds.

Amended by Chapter 176, 2014 General Session

10-6-110 Budget -- Contents -- Total of revenues to equal expenditures.

(1) The budget for each fund set forth in Subsection 10-6-109(1) shall provide a complete financial plan for the budget period. Each budget shall specify in tabular form:

- (a) estimates of all anticipated revenues, classified by the account titles prescribed in the Uniform Accounting Manual for Utah Cities; and
 - (b) all appropriations for expenditures, classified by the account titles prescribed in the Uniform Accounting Manual for Utah Cities.
- (2) The total of the anticipated revenues shall equal the total of appropriated expenditures.

Amended by Chapter 300, 1999 General Session

10-6-111 Tentative budget to be prepared -- Contents -- Estimate of expenditures -- Budget message -- Review by governing body.

- (1)
- (a) On or before the first regularly scheduled meeting of the governing body in the last May of the current period, the budget officer shall prepare for the ensuing fiscal period, on forms provided by the state auditor, and file with the governing body, a tentative budget for each fund for which a budget is required.
 - (b) The tentative budget of each fund shall set forth in tabular form:
 - (i) the actual revenues and expenditures in the last completed fiscal period;
 - (ii) the budget estimates for the current fiscal period;
 - (iii) the actual revenues and expenditures for a period of 6 to 21 months, as appropriate, of the current fiscal period;
 - (iv) the estimated total revenues and expenditures for the current fiscal period;
 - (v) the budget officer's estimates of revenues and expenditures for the budget period, computed as provided in Subsection (1)(c); and
 - (vi) if the governing body elects, the actual performance experience to the extent established by Section 10-6-154 and available in work units, unit costs, man hours, or man years for each budgeted fund on an actual basis for the last completed fiscal period, and estimated for the current fiscal period and for the ensuing budget period.
 - (c)
 - (i) In making estimates of revenues and expenditures under Subsection (1)(b)(v), the budget officer shall estimate:
 - (A) on the basis of demonstrated need, the expenditures for the budget period, after:
 - (I) hearing each department head; and
 - (II) reviewing the budget requests and estimates of the department heads; and
 - (B)
 - (I) the amount of revenue available to serve the needs of each fund;
 - (II) the portion of revenue to be derived from all sources other than general property taxes; and
 - (III) the portion of revenue that shall be derived from general property taxes.
 - (ii) The budget officer may revise any department's estimate under Subsection (1)(c)(i)(A) (II) that the officer considers advisable for the purpose of presenting the budget to the governing body.
 - (iii) From the estimate made under Subsection (1)(c)(i)(B)(III), the budget officer shall compute and disclose in the budget the lowest rate of property tax levy that will raise the required amount of revenue, calculating the levy upon the latest taxable value.
- (2)
- (a) Each tentative budget, when filed by the budget officer with the governing body, shall contain the estimates of expenditures submitted by department heads, together with specific work programs and such other supporting data as this chapter requires or the governing body may

request. Each city of the first or second class shall, and a city of the third, fourth, or fifth class may, submit a supplementary estimate of all capital projects which each department head believes should be undertaken within the next three succeeding years.

- (b) Each tentative budget submitted by the budget officer to the governing body shall be accompanied by a budget message, which shall explain the budget, contain an outline of the proposed financial policies of the city for the budget period, and shall describe the important features of the budgetary plan. It shall set forth the reasons for salient changes from the previous fiscal period in appropriation and revenue items and shall explain any major changes in financial policy.
- (3) Each tentative budget shall be reviewed, considered, and tentatively adopted by the governing body in any regular meeting or special meeting called for the purpose and may be amended or revised in such manner as is considered advisable prior to public hearings, except that no appropriation required for debt retirement and interest or reduction of any existing deficits pursuant to Section 10-6-117, or otherwise required by law or ordinance, may be reduced below the minimums so required.
- (4)
 - (a) If the municipality is acting pursuant to Section 10-2a-218, the tentative budget shall:
 - (i) be submitted to the governing body-elect as soon as practicable; and
 - (ii) cover each fund for which a budget is required from the date of incorporation to the end of the fiscal year.
 - (b) The governing body shall substantially comply with all other provisions of this chapter, and the budget shall be passed upon incorporation.

Amended by Chapter 352, 2015 General Session

10-6-112 Tentative budget and data -- Availability for public inspection.

Each tentative budget adopted by the governing body and all supporting schedules and data shall be a public record in the office of the city auditor or the city recorder, available for public inspection for a period of at least 10 days prior to the adoption of a final budget, as hereinafter provided.

Enacted by Chapter 26, 1979 General Session

10-6-113 Budget -- Notice of hearing to consider adoption.

At the meeting at which each tentative budget is adopted, the governing body shall establish the time and place of a public hearing to consider its adoption and shall order that notice of the public hearing be published at least seven days prior to the hearing:

- (1)
 - (a) in at least one issue of a newspaper of general circulation published in the county in which the city is located; or
 - (b) if there is not a newspaper as described in Subsection (1)(a), then the notice required by this section may be posted in three public places within the city; and
- (2) on the Utah Public Notice Website created in Section 63F-1-701.

Amended by Chapter 90, 2010 General Session

Amended by Chapter 116, 2010 General Session

10-6-114 Budget -- Public hearing on tentatively adopted budget.

At the time and place advertised, or at any time and place to which the public hearing may be adjourned, the governing body shall hold a public hearing on the budgets tentatively adopted. All interested persons in attendance shall be given an opportunity to be heard, for or against, the estimates of revenue and expenditures or any item thereof in the tentative budget of any fund.

Enacted by Chapter 26, 1979 General Session

10-6-115 Budget -- Continuing authority of governing body.

After the conclusion of the public hearing, the governing body may continue to review any tentative budget and may insert such new items or may increase or decrease items of expenditure that were the proper subject of consideration at the public hearing, except there shall be no decrease in the amount appropriated for debt retirement and interest or reduction of any existing deficits, as provided by Section 10-6-117. It shall also increase or decrease the total anticipated revenue to equal the net change in proposed expenditures in the budget of each fund.

Enacted by Chapter 26, 1979 General Session

10-6-116 Accumulated fund balances -- Limitations -- Excess balances -- Unanticipated excess of revenues -- Reserves for capital improvements.

- (1)
 - (a) A city may accumulate retained earnings or fund balances, as appropriate, in any fund. With respect to the city general fund only, any accumulated fund balance is restricted to the following purposes:
 - (i) to provide working capital to finance expenditures from the beginning of the budget period until general property taxes, sales taxes, or other applicable revenues are collected, thereby reducing the amount the city must borrow during the period;
 - (ii) to provide a resource to meet emergency expenditures under Section 10-6-129; and
 - (iii) to cover a pending year-end excess of expenditures over revenues from an unavoidable shortfall in revenues.
 - (b) Notwithstanding Subsection (1)(a)(i), a city may not appropriate a fund balance for budgeting purposes except as provided in Subsection (4).
 - (c) Notwithstanding Subsection (1)(a)(iii), a city may not appropriate a fund balance to avoid an operating deficit during any budget period except as provided under Subsection (4), or for emergency purposes under Section 10-6-129.
- (2) The accumulation of a fund balance in the city general fund may not exceed 25% of the total revenue of the city general fund for the current fiscal period.
- (3) If the fund balance at the close of any fiscal period exceeds the amount permitted under Subsection (2), the excess shall be appropriated in the manner provided in Section 10-6-117.
- (4) Any fund balance in excess of 5% of the total revenues of the city general fund may be utilized for budget purposes.
- (5)
 - (a) Within a capital improvements fund, the governing body may, in any budget period, appropriate from estimated revenue or fund balance to a reserve for capital improvements for the purpose of financing future specific capital improvements, under a formal long-range capital plan adopted by the governing body.
 - (b) The reserves described in Subsection (5)(a) may accumulate from fiscal period to fiscal period until the accumulated total is sufficient to permit economical expenditure for the specified purposes.

- (c) Disbursements from reserves described in Subsection (5)(a) shall be made only by transfer to a revenue or transfer account within the capital improvements fund, under a budget appropriation in a budget for the fund adopted in the manner provided by this chapter.
- (d) Expenditures from the above appropriation budget accounts shall conform to all requirements of this chapter relating to execution and control of budgets.

Amended by Chapter 176, 2014 General Session

10-6-117 Appropriations not to exceed estimated expendable revenue -- Determination of revenue -- Appropriations for existing deficits.

- (1) The governing body of any city may not make any appropriation in the final budget of any fund in excess of the estimated expendable revenue for the budget period of the fund.
- (2) In determining the estimated expendable revenue of the city general fund for the budget period, there shall be included therein as an appropriation from the fund balance that portion of the fund balance at the close of the last completed fiscal period, not previously included in the budget of the current period, that exceeds the amount permitted in Section 10-6-116.
- (3)
 - (a) There shall be included as an item of appropriation in each fund for any budget period any existing deficit as of the close of the last completed fiscal period, not previously included in the budget of the current period, to the extent of at least 5% of the total revenue of the fund in its last completed fiscal period.
 - (b) If the total amount of the deficit is less than 5% of the total revenue in the last completed fiscal period, the entire amount of the deficit shall be included.

Amended by Chapter 176, 2014 General Session

10-6-118 Adoption of final budget -- Certification and filing.

Before the last June 22 of each fiscal period, or, in the case of a property tax increase under Sections 59-2-919 through 59-2-923, before August 17 of the year for which a property tax increase is proposed, the governing body shall by resolution or ordinance adopt a budget for the ensuing fiscal period for each fund for which a budget is required under this chapter. A copy of the final budget for each fund shall be certified by the budget officer and filed with the state auditor within 30 days after adoption.

Amended by Chapter 178, 2001 General Session

10-6-119 Budgets in effect for budget period -- Amendment -- Filing for public inspection.

Upon final adoption, the budgets shall be in effect for the budget period, subject to later amendment. A certified copy of the adopted budgets shall be filed in the office of the city auditor or city recorder and shall be available to the public during regular business hours.

Amended by Chapter 300, 1999 General Session

10-6-120 Property tax levy -- Amount in budget as basis for determining.

From the effective date of the budget or of any amendment enacted prior to the date on which property taxes are levied, the amount stated therein as the amount of estimated revenue from property taxes shall constitute the basis for determining the property tax levy to be set by the

governing body for the corresponding tax year, subject to the applicable limitations imposed by law.

Enacted by Chapter 26, 1979 General Session

10-6-121 Departmental expenditures -- Encumbrances -- Purchase order.

- (1) The budget officer shall require all expenditures by any department to conform with the departmental budget.
- (2) No appropriation may be encumbered and no expenditure may be made against any departmental appropriation unless there is sufficient unencumbered balance in the department's appropriation, except in cases of emergency as provided by this chapter.
- (3) All encumbrances reported as outstanding as of the fiscal period end shall be supported by a purchase order issued on or before the last day of the fiscal period and approved by the mayor in the council-mayor optional form of government or the governing body or its delegate in other cities, as provided under this chapter.

Amended by Chapter 300, 1999 General Session

10-6-122 Purchasing procedures and file of bids received and proof of advertisement -- Time for keeping.

- (1) All purchases or encumbrances thereof by a city shall be made or incurred according to the purchasing procedures established by each city by ordinance or resolution and only on an order or approval of the person duly authorized to act as a purchasing agent for the city.
- (2) Whenever any city is required by law to receive bids for purchases, construction, repairs, or any other purpose requiring the expenditure of funds, that city shall keep on file all bids received, together with proof of advertisement by publication or otherwise, for:
 - (a) at least three years following the letting of any contract pursuant to those bids; or
 - (b) three years following the first advertisement for the bids, if all bids pursuant to that advertisement are rejected.

Amended by Chapter 206, 2004 General Session

10-6-123 Expenditures or encumbrances in excess of appropriations prohibited -- Processing claims.

City officers may not make or incur expenditures or encumbrances in excess of total appropriations for any department in the budget as adopted or as subsequently amended. Any obligation contracted by any such officer may not be or become valid or enforceable against the city. No check or warrant to cover any claim against any appropriation shall be drawn until the claim has been processed as provided by this chapter.

Amended by Chapter 378, 2010 General Session

10-6-124 Transfer of appropriation balance between accounts -- Excess expenditure within departments.

With the consent of the budget officer, or the approval in charter cities as required by charter, the head of any department may transfer any unencumbered or unexpended appropriation balance or any portion thereof from one expenditure account to another within the department during the budget period, or an excess expenditure of one or more line items may be permitted by any

department head with the consent of the budget officer, or his equivalent in charter cities, provided the total of all excess expenditures or encumbrances do not exceed total unused appropriations within the department at the close of the budget period.

Amended by Chapter 300, 1999 General Session

10-6-125 Transfer of appropriation balance between departments in same fund.

At the request of the budget officer or upon its own initiative, the governing body by resolution may transfer any unencumbered or unexpended appropriation balance or portion thereof from one department in a fund to another within the same fund, provided that no appropriation for debt retirement and interest, reduction of deficit, or other appropriation required by law or ordinance shall be reduced below the minimums required.

Enacted by Chapter 26, 1979 General Session

10-6-126 Reduction of total budget appropriation of department by resolution -- Notice to governing body.

The total budget appropriation of any department may be reduced for purposes other than transfer to another department by resolution of the governing body at any regular meeting, or special meeting, called for that purpose, if notice of the proposed action is given to all members of the governing body at least five days before such action. The notice may be waived in writing or orally during attendance at the meeting by any member of the governing body.

Enacted by Chapter 26, 1979 General Session

10-6-127 Review of individual fund budgets -- Hearing.

- (1)
 - (a) Upon the written request of one of the members of the governing body, or upon its own motion setting forth the reason therefor, the governing body may, at any time during the budget period, review the individual budgets of the funds set forth in Section 10-6-109, for the purpose of determining if the total of any of them should be increased.
 - (b) If the governing body decides that the budget total of one or more of these funds should be increased, it shall follow the procedures set forth in Sections 10-6-113 and 10-6-114 for holding a public hearing.
- (2)
 - (a) In a city that has adopted a fiscal period that is a biennial period under Subsection 10-6-105(2), the governing body shall, in a public hearing before June 30 of the first year of the biennial period, review the individual budgets of the funds set forth in Sections 10-6-109 and 10-6-135 for the second year of the biennial period.
 - (b) In each review under Subsection (2)(a), the governing body shall follow the procedures of Sections 10-6-113 and 10-6-114 for holding a public hearing.

Amended by Chapter 300, 1999 General Session

10-6-128 Amendment and increase of individual fund budgets.

After the conclusion of the hearing, the governing body, by resolution or ordinance, may amend the budgets of the funds proposed to be increased, so as to make all or part of the increases therein, both estimated revenues and appropriations, which were the proper subject of

consideration at the hearing. Final amendments in the current period to the budgets of any of the funds set forth in Section 10-6-109 shall be adopted by the governing body on or before the last day of the fiscal period.

Amended by Chapter 300, 1999 General Session

10-6-129 Emergency expenditures.

- (1) If the governing body of a city determines that an emergency exists, such as widespread damage from fire, flood, or earthquake, and that the emergency necessitates the expenditure of money in excess of the budget of the city general fund, the governing body may by resolution amend the budget and authorize such expenditures and incur such deficits in the fund balance of the city general fund as may be reasonably necessary to meet the emergency.
- (2) Except to the extent provided for in Title 53, Chapter 2a, Part 6, Disaster Recovery Funding Act, the governing body of a city may not expend money in the city's local fund for an emergency, if the city creates a local fund under Title 53, Chapter 2a, Part 6, Disaster Recovery Funding Act.

Amended by Chapter 176, 2014 General Session

10-6-130 Lapse of appropriations -- Exceptions.

All unexpended or unencumbered appropriations except capital projects fund appropriations shall lapse at the end of the budget period.

Amended by Chapter 300, 1999 General Session

10-6-131 Transfer of balances in special funds.

If the necessity for maintaining any special fund of a city has ceased to exist and a balance remains in the fund, the governing body shall authorize the transfer of the balance to the fund balance account in the city general fund of the city, subject to all of the following:

- (1) Any balance remaining in a special assessment fund and any unrequired balance in the city's special improvements guaranty fund shall be treated in the manner provided in Sections 11-42-413 and 11-42-701.
- (2) Any balance remaining in a capital improvements or capital projects fund shall be transferred to:
 - (a) the appropriate debt service fund or other fund as required by the bond ordinance; or
 - (b) to the fund balance account in the city general fund.
- (3)
 - (a) If the governing body proposes to transfer a balance held in a trust fund for a specific purpose, other than a cemetery perpetual care trust fund, because the trust fund's original purpose or restriction has ceased to exist, the governing body shall hold a public hearing in accordance with Sections 10-6-113 and 10-6-114.
 - (b) In addition to the notice requirements of Section 10-6-113, the published notice shall invite those original contributors who contributed to the fund to appear at the hearing.
 - (c)
 - (i) If the governing body determines that the fund balance amounts are refundable to the original fund contributors, the original contributors shall have 30 days after the day on which the hearing in Subsection (3)(a) is held to file with the governing body a verified claim only for the amount of each original contributor's contribution.

- (ii) Any claim not filed in accordance with this section is invalid and barred.
- (d) Any balance remaining, after refunds to eligible original contributors, shall be transferred to the fund balance account in the city general fund.
- (4)
 - (a) If the governing body decides, in accordance with applicable laws and ordinances, that the need for continued maintenance of its cemetery perpetual care trust fund no longer exists, the governing body may, subject to Subsection (4)(b), transfer the balance in the cemetery perpetual care trust fund to the capital improvements fund.
 - (b) The balance transferred from the cemetery perpetual care trust fund to the capital improvements fund shall be used for cemetery purposes only, including land, buildings, or major improvements.

Amended by Chapter 176, 2014 General Session

10-6-132 Loans by one fund to another -- Acquiring bonds for investment.

- (1) Subject to this section, restrictions imposed by bond ordinance, or other controlling regulations, the governing body of a city may:
 - (a) subject to the restrictions in Section 53-2a-605, authorize an interfund loan from one fund to another; and
 - (b) with available cash in any fund, purchase or otherwise acquire for investment an unmatured bond of the city or of any fund of the city.
- (2) An interfund loan under Subsection (1)(a) shall be in writing and specify the terms and conditions of the loan, including the:
 - (a) effective date of the loan;
 - (b) name of the fund loaning the money;
 - (c) name of the fund receiving the money;
 - (d) amount of the loan;
 - (e) subject to Subsection (3), term of and repayment schedule for the loan;
 - (f) subject to Subsection (4), interest rate of the loan;
 - (g) method of calculating interest applicable to the loan;
 - (h) procedures for:
 - (i) applying interest to the loan; and
 - (ii) paying interest on the loan; and
 - (i) other terms and conditions the governing body determines applicable.
- (3) The term and repayment schedule specified under Subsection (2)(e) may not exceed 10 years.
- (4)
 - (a) In determining the interest rate of the loan specified under Subsection (2)(f), the governing body shall apply an interest rate that reflects the rate of potential gain had the funds been deposited or invested in a comparable investment.
 - (b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under Subsection (2)(f):
 - (i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less than the rate offered by the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or
 - (ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be less than the greater of the rate offered by:
 - (A) the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or

(B) a United States Treasury note of a comparable term.

- (5)
- (a) For an interfund loan under Subsection (1)(a), the governing body shall:
 - (i) hold a public hearing;
 - (ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the proposed terms and conditions of the interfund loan under Subsection (2);
 - (iii) provide notice of the public hearing in the same manner as required under Section 10-6-113 as if the hearing were a budget hearing; and
 - (iv) authorize the interfund loan by ordinance or resolution in a public meeting.
 - (b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the interfund loan is included in an original budget or in a subsequent budget amendment previously approved by the governing body for the current fiscal year.
- (6) Subsections (2) through (5) do not apply to an interfund loan if the interfund loan is:
- (a) a loan from the city general fund to any other fund of the city; or
 - (b) a short-term advance from the city's cash and investment pool to individual funds that are repaid by the end of the fiscal year.

Amended by Chapter 253, 2014 General Session

10-6-133 Property tax levy -- Time for setting -- Computation of total levy -- Apportionment of proceeds -- Maximum levy.

- (1)
- (a) Before June 22 of each year, or August 17 in the case of a property tax rate increase under Sections 59-2-919 through 59-2-923, the governing body of each city, including charter cities, at a regular meeting or special meeting called for that purpose, shall by ordinance or resolution set the real and personal property tax levy for various municipal purposes.
 - (b) Notwithstanding Subsection (1)(a), the governing body may set the levy at an appropriate later date with the approval of the State Tax Commission.
- (2) In its computation of the total levy, the governing body shall determine the requirements of each fund for which property taxes are to be levied and shall specify in its ordinance or resolution adopting the levy the amount apportioned to each fund.
- (3) The proceeds of the levy apportioned for city general fund purposes shall be credited as revenue in the city general fund.
- (4) The proceeds of the levy apportioned for special fund purposes shall be credited to the appropriate accounts in the applicable special funds.
- (5) The combined levies for each city, including charter cities, for all purposes in any year, excluding the retirement of general obligation bonds and the payment of any interest, and taxes expressly authorized by law to be levied in addition, may not exceed .007 per dollar of taxable value of taxable property.

Amended by Chapter 176, 2014 General Session

10-6-134 Certification of ordinance or resolution setting levy.

The city recorder shall certify the ordinance or resolution setting the levy to the county auditor, or auditors if the municipality is located in more than one county, before the fifteenth day of June of each year.

Amended by Chapter 71, 1982 General Session

10-6-135 Operating and capital budgets.

- (1)
 - (a) As used in this section, "operating and capital budget" means a plan of financial operation for an enterprise fund or other required special fund that includes estimates of operating resources, expenses, and other outlays for a fiscal period.
 - (b) Except as otherwise expressly provided, any reference to "budget" or "budgets" and the procedures and controls relating to them in other sections of this chapter do not apply or refer to the operating and capital budgets described in this section.
- (2) At or before the time the governing body adopts budgets for the funds described in Section 10-6-109, the governing body shall adopt:
 - (a) an operating and capital budget for each enterprise fund for the ensuing fiscal period; and
 - (b) the type of budget for other special funds as required by the Uniform Accounting Manual for Utah Cities.
- (3)
 - (a) The governing body shall adopt and administer an operating and capital budget in accordance with this Subsection (3).
 - (b) A governing body may spend or transfer money deposited in an enterprise fund for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created, if the governing body:
 - (i) transfers the money from the enterprise fund to another fund; and
 - (ii) complies with the hearing and notice requirements of Subsections (3)(f)(i), (ii), and (iii).
 - (c) At or before the first regularly scheduled meeting of the governing body in the last May of the current fiscal period, the budget officer shall:
 - (i) prepare for the ensuing fiscal period and file with the governing body a tentative operating and capital budget for:
 - (A) each enterprise fund; and
 - (B) other required special funds;
 - (ii) include with the tentative operating and capital budget described in Subsection (3)(d)(i) specific work programs as submitted by each department head; and
 - (iii) include any other supporting data required by the governing body.
 - (d) Each city of the first or second class shall, and each city of the third, fourth, or fifth class may, submit a supplementary estimate of all capital projects which a department head believes should be undertaken within the three next succeeding fiscal periods.
- (e)
 - (i) Subject to Subsection (3)(e)(ii), the budget officer shall prepare all estimates after review and consultation with each department head described in Subsection (3)(d).
 - (ii) After complying with Subsection (3)(e)(i), the budget officer may revise any departmental estimate before it is filed with the governing body.
- (f)
 - (i) Except as provided in Subsection (3)(f)(iv), if the governing body includes in a tentative budget or an amendment to a budget allocations or transfers from an enterprise fund to another fund or a good, service, project, venture, or purpose other than reasonable allocations of costs between the enterprise fund and the other fund, the governing body shall:
 - (A) hold a public hearing;
 - (B) prepare a written notice of the date, time, place, and purpose of the hearing, as described in Subsection (3)(f)(ii); and

- (C) subject to Subsection (3)(f)(iii), mail the written notice to each enterprise fund customer at least seven days before the day of the hearing.
 - (ii) The purpose portion of the written notice required under Subsection (3)(f)(i)(B) shall identify:
 - (A) the enterprise fund from which money is being transferred;
 - (B) the amount being transferred; and
 - (C) the fund to which the money is being transferred.
 - (iii) The governing body:
 - (A) may print the written notice required under Subsection (3)(f)(i) on the enterprise fund customer's bill; and
 - (B) shall include the written notice required under Subsection (3)(f)(i) as a separate notification mailed or transmitted with the enterprise fund customer's bill.
 - (iv) A governing body is not required to repeat the notice and hearing requirements in this Subsection (3)(f) if the funds to be allocated or transferred for the current year were previously approved by the governing body during the current year and at a public hearing that complies with the notice and hearing requirements of this Subsection (3)(f).
- (4)
- (a) Each tentative budget, amendment to a budget, or budget shall be reviewed and considered by the governing body at any regular meeting or special meeting called for that purpose.
 - (b) The governing body may make changes in the tentative budgets.
- (5) Budgets for enterprise or other required special funds shall comply with the public hearing requirements established in Sections 10-6-113 and 10-6-114.
- (6)
- (a) Before the last June 30 of each fiscal period, or, in the case of a property tax increase under Sections 59-2-919 through 59-2-923, before August 31 of the year for which a property tax increase is proposed, the governing body shall adopt an operating and capital budget for each applicable fund for the ensuing fiscal period.
 - (b) A copy of the budget as finally adopted for each fund shall be:
 - (i) certified by the budget officer;
 - (ii) filed by the budget officer in the office of the city auditor or city recorder;
 - (iii) available to the public during regular business hours; and
 - (iv) filed with the state auditor within 30 days after the day on which the budget is adopted.
- (7)
- (a) Upon final adoption, the operating and capital budget is in effect for the budget period, subject to later amendment.
 - (b) During the budget period the governing body may, in any regular meeting or special meeting called for that purpose, review any one or more of the operating and capital budgets for the purpose of determining if the total of any of them should be increased.
 - (c) If the governing body decides that the budget total of one or more of the funds should be increased under Subsection (7)(b), the governing body shall follow the procedures set forth in Section 10-6-136.
- (8) Expenditures from operating and capital budgets shall conform to the requirements relating to budgets specified in Sections 10-6-121 through 10-6-126.

Amended by Chapter 377, 2014 General Session

10-6-136 Increase in appropriations for operating and capital budget funds -- Notice.

The total budget appropriation of any fund described in Section 10-6-135 may be increased by resolution of the governing body at any regular meeting, or special meeting called for that purpose,

provided that written notice of the time, place and purpose of the meeting shall have been mailed or delivered to all members of the governing body at least five days prior to the meeting. The notice may be waived in writing or orally during attendance at the meeting by any member of the governing body.

Enacted by Chapter 26, 1979 General Session

10-6-137 City recorder -- Office -- Meetings and records -- Certified records as evidence.

The office of the city recorder shall be located at the place of the governing body or at some other place convenient thereto as the governing body may direct. The city recorder or deputy city recorder shall attend the meetings and keep the record of the proceedings of the governing body. Copies of all papers filed in the recorder's office and transcripts from all records of the governing body, if certified by the recorder under the corporate seal, are admissible in all courts as originals.

Enacted by Chapter 26, 1979 General Session

10-6-138 City recorder to countersign contracts -- Indexed record of contracts.

The city recorder shall countersign all contracts made on behalf of the city and shall maintain a properly indexed record of all such contracts.

Enacted by Chapter 26, 1979 General Session

10-6-139 City auditor or recorder -- Bookkeeping duties -- Duties with respect to payment of claims.

- (1) The city auditor in each city of the first and second class, and the city recorder in each city of the third, fourth, or fifth class shall maintain the general books for each fund of the city and all subsidiary records relating thereto, including a list of the outstanding bonds, their purpose, amount, terms, date, and place payable.
- (2)
 - (a) The city auditor or city recorder, as appropriate, shall keep accounts with all receiving and disbursing officers of the city, shall preaudit all claims and demands against the city before they are allowed, and shall prepare the necessary checks in payment.
 - (b) Those checks shall include an appropriate certification pursuant to Section 11-1-1, examples of which shall be presented in the Uniform Accounting Manual for Utah Cities.
 - (c) The city auditor or city recorder shall also certify on the voucher or check copy, as appropriate, that:
 - (i) the claim has been preaudited and documented;
 - (ii) the claim has been approved in one of the following ways:
 - (A) purchase order directly approved by the mayor in the council-mayor optional form of government, or the governing body or its delegate in other cities;
 - (B) claim directly approved by the governing body; or
 - (C) claim approved by the financial officer;
 - (iii) the claim is within the lawful debt limit of the city; and
 - (iv) the claim does not overexpend the appropriate departmental budget established by the governing body.

Amended by Chapter 292, 2003 General Session

10-6-140 Warrants for payment of claims.

In the event the city is without funds on deposit in one of its appropriate bank accounts with which to pay any lawfully approved claim, the city auditor or recorder shall draw and sign a warrant upon the treasurer of the city for payment of the claim, the warrant to be tendered to the payee named thereon.

Enacted by Chapter 26, 1979 General Session

10-6-141 City treasurer -- Duties generally.

- (1) The city treasurer is custodian of all money, bonds, or other securities of the city.
- (2) The city treasurer shall:
 - (a) determine the cash requirements of the city and provide for the investment of all money by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act;
 - (b) receive all public funds and money payable to the city, within three business days after collection, including all taxes, licenses, fines, and intergovernmental revenue;
 - (c) keep an accurate detailed account of all money received under Subsection (2)(b) in the manner provided in this chapter and as directed by the legislative body of the city by ordinance or resolution; and
 - (d) collect all special taxes and assessments as provided by law and ordinance.

Amended by Chapter 285, 1992 General Session

10-6-142 City treasurer -- Receipts for payment.

The city treasurer shall give or cause to be given to every person paying money to the city treasury, a receipt or other evidence of payment therefor, specifying, as appropriate, the date of payment and upon which account paid and shall file the duplicate of the receipt, a summary report, or other evidence of payment in the office of the auditor or recorder.

Enacted by Chapter 26, 1979 General Session

10-6-143 City treasurer or deputy -- Duties with respect to issuance of checks.

The treasurer, or in his absence a deputy treasurer appointed by the governing body, shall sign all checks prepared by the auditor or recorder. Prior to affixing the signature, the treasurer or deputy treasurer shall determine that a sufficient amount is on deposit in the appropriate bank account of the city to honor the check. The governing body may also designate a person, other than the city auditor or the city recorder, to countersign checks.

Enacted by Chapter 26, 1979 General Session

10-6-144 City treasurer -- Warrants -- Order of payment.

In the absence of appropriate money, as set forth in Section 10-6-140, the treasurer shall pay all warrants in the order in which presented and as money becomes available for payment thereof in the appropriate funds of the city. The treasurer shall note upon the back of each warrant presented the date of presentation and the date of payment.

Enacted by Chapter 26, 1979 General Session

10-6-145 City treasurer -- Special assessments -- Application of proceeds.

All money received by the treasurer on any special assessment shall be applied to the payment of the improvement for which the assessment was made. The money shall be used for the payment of interest and principal on bonds or other indebtedness issued in settlement thereof, and shall be used for no other purpose whatever, except as otherwise provided in Section 10-6-131.

Enacted by Chapter 26, 1979 General Session

10-6-146 City treasurer -- Deposit of city funds -- Commingling with personal funds unlawful -- Suspension from office.

The treasurer shall promptly deposit all city funds in the appropriate bank accounts of the city. It shall be unlawful for any person to commingle city funds with his or her own money. Whenever it shall appear that the treasurer or any other officer is making profit out of public money, or is using the same for any purpose not authorized by law, such treasurer or officer shall be suspended from office.

Enacted by Chapter 26, 1979 General Session

10-6-147 Quarterly financial reports -- First and second class cities.

The city auditor in cities of the first and second class shall prepare and present to the governing body appropriate quarterly financial reports, prepared in the manner prescribed in the Uniform Accounting Manual for Utah Cities.

Amended by Chapter 48, 1981 General Session

10-6-148 Monthly and quarterly financial reports -- Cities of the third, fourth, and fifth class.

The city recorder or other delegated person in each city of the third, fourth, or fifth class shall prepare and present to the governing body monthly summary financial reports and quarterly detail financial reports, prepared in the manner prescribed in the Uniform Accounting Manual for Utah Cities.

Amended by Chapter 292, 2003 General Session

10-6-150 Annual financial reports -- Independent audit reports.

- (1) Within 180 days after the close of each fiscal period or, for a city that has adopted a fiscal period that is a biennial period, within 180 days after both the mid-point and the close of the fiscal period, the city recorder or other delegated person shall present to the governing body an annual financial report prepared in conformity with generally accepted accounting principles, as prescribed in the Uniform Accounting Manual for Utah Cities.
- (2)
 - (a) The requirement under Subsection (1) to present an annual financial report may be satisfied by presentation of the audit report furnished by the independent auditor, if the financial statements included are appropriately prepared and reviewed with the governing body.
 - (b) Notwithstanding the acceptability of the audit report furnished by the independent auditor in substitution for financial statements prepared by an officer of the city, the governing body has the responsibility for those financial statements.
 - (c) The independent auditor has the responsibility of reporting whether the governing body's financial statements are prepared in conformity with generally accepted accounting principles.

- (3) Copies of the annual financial report or the audit report furnished by the independent auditor shall be filed with the state auditor and shall be filed as a public document in the office of the city recorder.

Amended by Chapter 323, 2009 General Session

10-6-151 Independent audit requirements.

Independent audits of all cities are required to be performed in conformity with Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Amended by Chapter 19, 2008 General Session

10-6-152 Notice that audit completed and available for inspection.

Within 10 days following the receipt of the audit report furnished by the independent auditor, the city auditor in cities having an auditor and the city recorder in all other cities shall:

- (1) prepare and publish:
 - (a)
 - (i) at least twice in a newspaper of general circulation published within the county, a notice to the public that the audit of the city has been completed; or
 - (ii) if a newspaper of general circulation is not published within the county, the notice required by this section may be posted in three public places; and
 - (b) a notice, published in accordance with Section 45-1-101, to the public that the audit of the city has been completed; and
- (2) make a copy of the notice described in Subsection (1)(a) available for inspection at the office of the city auditor or recorder.

Amended by Chapter 388, 2009 General Session

10-6-154 Duties of state auditor -- Adoption and expansion of uniform system.

- (1) The state auditor shall:
 - (a) prescribe uniform accounting and reporting procedures for cities, in conformity with generally accepted accounting principles;
 - (b) conduct a continuing review and modification of such procedures to improve them;
 - (c) prepare and supply each city with suitable budget and reporting forms; and
 - (d) prepare instructional materials, conduct training programs and render other services deemed necessary to assist cities in implementing the uniform accounting, budgeting and reporting procedures.
- (2) The Uniform Accounting Manual for Utah Cities shall prescribe reasonable exceptions and modifications for fourth and fifth class cities to the uniform system of accounting, budgeting, and reporting.
- (3) The state auditor shall establish and conduct a continuing review of suggested measurements and procedures for program and performance budgeting and reporting which may be evaluated on a statewide basis.
- (4) Cities may expand the uniform accounting and reporting procedures to better serve their needs; however, no deviations from or alterations to the basic prescribed classification systems for the identity of funds and accounts shall be made.

Amended by Chapter 413, 2013 General Session

10-6-156 State auditor to evaluate fiscal practices.

The state auditor shall continually analyze and evaluate the accounting, budgeting and reporting practices and experiences of specific cities selected by the state auditor and shall make such information available to all cities.

Enacted by Chapter 26, 1979 General Session

10-6-157 Director of finance in certain cities and towns.

- (1) The legislative body of a city of the third, fourth, or fifth class or of a town may, by resolution or ordinance, create a director of finance position to perform the financial duties and responsibilities of the city recorder or town clerk, as the case may be, as established by this chapter.
- (2) A director of finance:
 - (a) shall be:
 - (i) a qualified person; and
 - (ii) appointed and removed by the mayor, with the advice and consent of the legislative body; and
 - (b) may not assume the duties of the city or town treasurer.
- (3) The legislative body may adopt the financial administrative duties of the director of finance prescribed in the Uniform Accounting Manual for Utah Cities.

Amended by Chapter 375, 2010 General Session

10-6-158 Financial administration ordinance -- Adoption -- Purpose.

The governing body under the council-mayor optional form of government shall, and the governing body of any other city may, adopt a financial administration ordinance, which would, with appropriate budgetary controls, authorize the mayor, director of finance, or other official approved by the council, to act as the financial officer for the purpose of approving:

- (1) payroll checks, if the checks are prepared in accordance with a salary schedule established in a personnel ordinance or resolution; or
- (2) routine expenditures, such as utility bills, payroll-related expenses, supplies, materials, and payments on city-approved contracts and capital expenditures which were referenced in the budget document and approved by an appropriation resolution adopted for the current fiscal year.

Amended by Chapter 119, 1985 General Session

10-6-159 Financial administration ordinance -- Provisions.

The financial administration ordinances adopted pursuant to Section 10-6-158 shall provide for the following:

- (1) a maximum sum over which all purchases may not be made without the approval of the mayor in the council-mayor optional form of government or the governing body in other cities; however, this section does not prevent the mayor in the council-mayor optional form of government or the governing body in other cities from approving all or part of a list of verified claims, including a specific claim in an amount in excess of the stated maximum, where certified by the appropriate financial officer or officers of the city;

- (2) that the financial officer be bonded for a reasonable amount; and
- (3) such other provisions as the governing body may deem advisable.

Amended by Chapter 378, 2010 General Session

10-6-160 Fees collected for construction approval.

- (1) As used in this section, "construction project" is as defined in Section 38-1a-102.
- (2) If a city collects a fee for the inspection of a construction project, the city shall ensure that the construction project receives a prompt inspection.
- (3) If a city cannot provide a building inspection within three business days, the city shall promptly engage an independent inspector with fees collected from the applicant.

Enacted by Chapter 197, 2014 General Session

Chapter 7 Miscellaneous Powers of Cities and Towns

Part 2 Local Boards of Health

10-7-3 Participation in and cooperation with local health department -- Adoption of ordinances.

Each municipality shall participate in and cooperate with the local health department operating in the county in which the municipality is located. The municipality shall cooperate with the board of health of the local health department in the adoption of ordinances necessary for the protection of public health.

Amended by Chapter 249, 2002 General Session

Part 3 Water, Lighting, and Sewers

10-7-4 Water supply -- Acquisition -- Condemnation -- Protest -- Special election -- Determination of just compensation.

- (1) The board of commissioners, city council or board of trustees of any city or town may acquire, purchase or lease all or any part of any water, waterworks system, water supply or property connected therewith, and whenever the governing body of a city or town shall deem it necessary for the public good such city or town may bring condemnation proceedings to acquire the same; provided, that if within 30 days after the passage and publication of a resolution or ordinance for the purchase or lease or condemnation herein provided for one-third of the resident taxpayers of the city or town, as shown by the assessment roll, shall protest against the purchase, lease or condemnation proceedings contemplated, such proposed purchase, lease or condemnation shall be referred to a special election, and if confirmed by a majority vote thereat, shall take effect; otherwise it shall be void.

- (2) In all condemnation proceedings the value of land affected by the taking shall be considered in connection with the water or water rights taken for the purpose of supplying the city or town or the inhabitants thereof with water.
- (3) In determining just compensation in a condemnation proceeding under this section in a municipality located in a county of the first class where a determination of market value of what is proposed to be taken is impractical because there is no meaningful market for what is proposed to be taken, the value shall be:
 - (a) presumed to be the amount the owner paid to acquire ownership of what is proposed to be taken, as adjusted by a change in value due to post-acquisition deterioration and any other factor reasonably and equitably bearing on the value of what is proposed to be taken; and
 - (b) determined by applying equitable considerations including:
 - (i) whether the owner will be unjustly enriched;
 - (ii) whether the owner acquired the property by exaction or similar method; and
 - (iii) the extent to which the consideration the owner provided in acquiring the property consists of an obligation to maintain the property and whether that obligation will be assumed by the municipality because of the condemnation.
- (4) This section may not be construed to provide the basis for a municipality's condemnation of a political subdivision of the state or of the political subdivision's property or holdings.

Amended by Chapter 378, 2010 General Session

10-7-5 Limitations on lease or purchase.

It is not lawful for any city or town to lease or purchase any part of such waterworks less than the whole, or to lease the same, unless the contract therefor shall provide that the city or town shall have control thereof and that the net revenues therefrom shall be divided proportionately to the interests of the parties thereto; said contract shall also provide a list of water rates to be enforced during the term of such contract.

Amended by Chapter 378, 2010 General Session

10-7-6 Contracts for lighting public buildings, streets, and alleys.

The board of commissioners, city council, or the board of trustees may enter into a contract on behalf of the city or town for the lighting of its public buildings, streets, alleys, and other public places for a period of time that the board of commissioners, city council, or board of trustees may consider advisable.

Amended by Chapter 105, 2012 General Session

10-7-7 Bond issues for water, light, and sewers.

- (1) A city of the first or second class may incur an indebtedness, not exceeding in the aggregate with all other indebtedness 8% of the value of the taxable property in the city, for the purpose of supplying the city with water, artificial light, or sewers, when the works for supplying the water, light, and sewers are owned and controlled by the city.
- (2) A city of the third, fourth, or fifth class or a town may become indebted to an amount not exceeding in the aggregate with all other indebtedness 12% of the value of the taxable property in the city or town for the purpose of supplying the city or town with water, artificial light, or sewers, when the works for supplying the water, light, and sewers are owned and controlled by the city or town.

Amended by Chapter 292, 2003 General Session

10-7-8 Resolution on bond issue -- Election as provided by Local Government Bonding Act.

When the board of commissioners, city council or the town board of trustees of any city or town shall have decided that incurring such bonded indebtedness is advisable, it shall by resolution specify the purpose for which the indebtedness is to be created and the amount of bonds which it is proposed to issue, and shall provide for submitting the question of the issue of such bonds to the qualified electors of the city or town at the next general election, or at a special election to be called for that purpose by the board of commissioners, city council or board of trustees in such manner and subject to such conditions as is provided in Title 11, Chapter 14, Local Government Bonding Act. This section does not require an election for the issuance of refunding bonds or other bonds not required by the Constitution to be voted at an election.

Amended by Chapter 105, 2005 General Session

10-7-9 Sale of bonds -- Amount -- Tax levy to pay interest -- Utility rates -- Sinking fund -- Serial or term bonds.

The board of commissioners, city council or board of trustees as the case may be shall provide by ordinance for the issuance and disposal of such bonds; provided, that no such bonds shall be sold for less than their face value. The board of commissioners, city council or board of trustees shall annually levy on all taxable property within the boundaries of the issuer a sufficient tax to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within the time for which such bonds are issued which levy shall be made without regard to any statutory limitation on the taxing power of such issuer which may now exist or, unless an express contrary provision appears in the statute, which may hereafter be enacted by the legislature; provided, that whenever bonds shall have been issued for the purpose of supplying any city or town with artificial light, water or other public utility the rates or charges for the service of the system or plant so constructed may be made sufficient to meet such payments, in addition to operating and maintenance expenses, and taxes shall be levied to meet any deficiencies. Water or sewer bonds may be issued for a period not exceeding 40 years; other bonds may be issued for a period not exceeding 20 years. Such bonds may be either serial or term bonds.

Amended by Chapter 2, 1953 Special Session 1

Amended by Chapter 2, 1953 Special Session 1

10-7-10.5 Authority to require written application for water or sewer service and to terminate service for failure to pay -- Limitations.

- (1) A municipality that owns or controls a system for furnishing water or for providing sewer service may:
- (a) before furnishing water or providing sewer service to a property, require the property owner or an authorized agent to submit a written application, signed by the owner or an authorized agent, agreeing to pay for all water furnished or sewer service provided to the property, respectively, whether occupied by the owner or by a tenant or other occupant, according to the ordinances, rules, and regulations adopted by the municipality; and
 - (b) if an owner fails to pay for water furnished or sewer service provided to the owner's property, discontinue furnishing water or providing sewer service to the property, respectively, until

all amounts for water furnished or sewer service provided, respectively, are paid, subject to Subsection (2).

- (2)
- (a) A municipality may not use an owner's failure to pay for water furnished or sewer service provided to the owner's property as a basis for not furnishing water or providing sewer service to the property after ownership of the property is transferred to a subsequent owner.
 - (b) A municipality may not require an owner to pay for water that was furnished or sewer service that was provided to the property before the owner's ownership.

Amended by Chapter 316, 2004 General Session

10-7-12 Scarcity of water -- Limitation on use.

In the event of scarcity of water the mayor of any city or the president of the board of trustees of any town may, by proclamation, limit the use of water for any purpose other than domestic purposes to such extent as may be required for the public good in the judgment of the board of commissioners or city council of any city or the board of trustees of any town.

No Change Since 1953

10-7-13 Right of entry on premises of water user.

All authorized persons connected with the waterworks of any city or town shall have the right to enter upon any premises furnished with water by such city or town to examine the apparatus, the amount of water used and the manner of use, and to make all necessary shutoffs for vacancy, delinquency or violation of the ordinances, rules or regulations enacted or adopted by such city or town.

No Change Since 1953

10-7-14 Rules and regulations for use of water.

Every city and town may enact ordinances, rules and regulations for the management and conduct of the waterworks system owned or controlled by it.

No Change Since 1953

10-7-14.1 Declaration of public policy.

Whereas, the purification of drinking water and the treatment of raw sewage are important to public health and welfare and create an unusual need for money with which to create proper facilities for the protection of the people of the state of Utah, it is hereby declared to be the public policy of this state to grant the privilege to municipalities to raise funds to improve the aforementioned health standards, to encourage the municipalities to provide that no waste shall be discharged into any waters of the state of Utah without first being given proper treatment, to provide for the treatment of water to be used for drinking purposes to protect the health of the citizens and to give municipalities the discretion to determine the priority of development of the facilities directed toward the elimination of health hazards and pollution of public waters. The construction of the facilities herein mentioned shall be given an early priority in those areas where the present welfare of the people is endangered by the lack of such facilities.

Amended by Chapter 3, 1953 Special Session 1

Amended by Chapter 3, 1953 Special Session 1

10-7-14.2 Special tax -- Grant of power to levy.

There is granted to the municipalities of the state not in an improvement district created for the purpose of establishing and maintaining a sewage collection, treatment, or disposal system or a system for the supply, treatment, or distribution of water pursuant to the provisions of Title 17B, Chapter 2a, Part 4, Improvement District Act, in addition to all other rights of assessment, the right to levy a tax annually not to exceed .0008 per dollar of taxable value of taxable property in the municipality. The money raised by the levy shall be placed in a special fund and used only for the purpose of financing the construction of facilities to purify the drinking water of the municipality and the construction of facilities for the treatment and disposal of the sewage of the municipality, or to pay principal and interest on bonds issued for the construction of facilities if construction has actually commenced subsequent to the enactment of this statute. The municipality may accumulate from year to year and reserve in the special fund the money raised for this purpose. The levy shall be made and collected in the same manner as other property taxes are levied and collected by municipalities.

Amended by Chapter 329, 2007 General Session

10-7-14.3 Time limit for cities of first class.

In cities of the first class the authority to levy an additional .0008 per dollar of taxable value of taxable property above the overall limitation provided by Section 10-6-133 shall be limited to a period of 10 years from the date of the first levy.

Amended by Chapter 22, 1989 General Session

Part 4

Sale or Lease of Power Plants

10-7-15 Sale or lease of electrical generation and distribution system -- Appraisal and vote required -- Manner of conducting the election.

- (1)
 - (a) Before selling or leasing in their entirety the works and plant constructed, purchased, or used by the municipality for the purpose of generating or distributing electrical energy for light, heat, or power purposes, the municipal legislative body shall:
 - (i) cause an appraisal of the property proposed to be sold or leased to be made under the supervision of three resident taxpayers of the municipality, to be appointed by the municipal legislative body; and
 - (ii) provide for submitting to the registered voters of the municipality the question of the sale or lease of the property, at the next general election or at a special election called for that purpose.
 - (b) The value of the property determined in an appraisal under Subsection (1)(a)(i) shall include all items that the municipal legislative body determines to add value to or subtract value from the property.
- (2)

- (a) Subject to Subsection (2)(b), each election under Subsection (1)(a)(ii) shall be called and conducted in the same manner as provided by statute for the issue of bonds in Section 10-7-8, the necessary changes in the form of the ballot being made.
- (b) Each notice of election required under Section 11-14-202 for an election held under Subsection (1)(a)(ii) shall include:
 - (i) a summary of the appraisal made under Subsection (1)(a)(i), including the amount of the appraisal; and
 - (ii) the name of each bidder who submitted a bid that was opened and considered under Section 10-7-17 and the amount of each bid.
- (3) In the process of selling or leasing in their entirety the municipality's electrical works and plant, a municipal legislative body may take whatever action it considers appropriate and in the sequence it considers appropriate, subject to the requirements of this section and Sections 10-7-16 and 10-7-17.

Amended by Chapter 105, 2005 General Session

10-7-16 Call for bids -- Notice -- Contents.

- (1)
 - (a) Before holding an election under Subsection 10-7-15(1)(a)(ii), the municipal legislative body shall open to bid the sale or lease of the property mentioned in Section 10-7-15.
 - (b) The municipal legislative body shall cause notice of the bid process to be given by publication for at least three consecutive weeks:
 - (i) in a newspaper published or having general circulation in the city or town; and
 - (ii) as required in Section 45-1-101.
 - (c) The notice described in Subsection (1) shall:
 - (i) give a general description of the property to be sold or leased;
 - (ii) specify the time when sealed bids for the property, or for a lease on the property, will be received; and
 - (iii) specify the time when and the place where the bids will be opened.
- (2)
 - (a) As used in this section and in Section 10-7-17, "responsible bidder" means an entity with a proven history of successful operation of an electrical generation and distribution system, or an equivalent proven history.
 - (b) Subject to Subsection (2)(c), a municipal legislative body may receive or refuse to receive any bid submitted for the sale or lease of the electrical works and plant.
 - (c) A municipal legislative body may not receive a bid unless the municipal legislative body determines that the bid is submitted by a responsible bidder.

Amended by Chapter 388, 2009 General Session

10-7-17 Opening of bids -- Amount to equal or exceed appraised value and amount of outstanding indebtedness.

At the time and place mentioned in the notice under Section 10-7-16, all bids received by the municipal legislative body for the property sought to be sold or leased shall be opened and considered, and the municipal legislative body shall, subject to approval of voters at an election held under Section 10-7-15, accept the bid of the highest responsible bidder, as defined in Section 10-7-16, if the bid price:

- (1)

- (a) is for an amount equal to or exceeding the appraised value of the property to be sold, as determined under Subsection 10-7-15(1); or
 - (b) in the judgment of the municipal legislative body, is an adequate price for the property; and
- (2) equals or exceeds the total principal and interest on any outstanding bonds and other indebtedness issued for the purpose of constructing the works or plant.

Amended by Chapter 90, 2002 General Session

10-7-18 Disposition of money received.

- (1) All money received from the sale of property under Sections 10-7-15 through 10-7-17 shall be kept in a separate fund, and may not be expended, or mixed with other funds of the city or town, until all bonds and other indebtedness issued for the purchase or construction of the plant or works, together with accumulated interest thereon, have first been paid.
- (2) If the property sold brings an amount in excess of the outstanding bonds and other indebtedness issued for the purchase or construction of the property sold, the excess shall be deposited in a bank in this state under direction of the municipal legislative body, and may not thereafter be expended except for some municipal purpose by authority given by the registered voters of the city or town at a general or special election called and conducted in the manner set forth in Sections 10-7-7 and 10-7-8.

Amended by Chapter 378, 2010 General Session

Part 5

Gifts to Railroads

10-7-19 Election to authorize -- Notice -- Ballots.

- (1) The board of commissioners or city council of any city or the board of trustees of any incorporated town is authorized to aid and encourage the building of railroads by granting to any railroad company for depot or other railroad purposes real property of such city or incorporated town, not necessary for municipal or public purposes, upon such limitations and conditions as the board of commissioners, council or board of trustees may prescribe; provided, however, that no such grant shall be made to any railroad company unless the question of making it has been submitted to the qualified electors of the city or town at the next municipal election, or special election to be called for that purpose by the board of commissioners, city council or town board.
- (2) If the question is submitted at a special election, it shall be held as nearly as practicable in conformity with the general election laws of the state.
- (3) Notice of an election described in Subsection (2) shall be given by publication:
 - (a)
 - (i) in a newspaper published or having general circulation in the city or town once a week for four weeks prior to the election; or
 - (ii) if there is not a newspaper as described in Subsection (3)(a)(i), then by posting notices; and
 - (b) in accordance with Section 45-1-101 for four weeks prior to the election.
- (4) The board of commissioners, city council or town board shall cause ballots to be printed and furnished to the qualified electors, which shall read: "For the proposed grant for depot or other railroad purposes: Yes. No."

- (5) If a majority of the qualified electors voting thereon shall have voted in favor of such grant, the board of commissioners, city council or town board shall then proceed to convey the property to the railroad company.

Amended by Chapter 388, 2009 General Session

Part 6

Contracts for Public Improvements

10-7-20.5 Restrictions on municipality procurement of architect-engineer services.

- (1) As used in this section, "architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.
- (2) When a municipality elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process:
- (a) a higher education entity, or any part of one, may not submit a proposal in response to the municipality's competitive procurement process; and
 - (b) the municipality may not award a contract to perform the architect or engineering services solicited in the competitive procurement process to a higher education entity or any part of one.

Enacted by Chapter 21, 2000 General Session

Part 7

Levy of Special Taxes by Cities and Towns

10-7-26 Streets and alleys used by railway companies.

- (1) As used in this section and in Sections 10-7-27, 10-7-29, 10-7-30, 10-7-31, 10-7-32, and 10-7-33, the terms "railway company" or "street railway company" means any company which owns or operates railway tracks on, along or across a street or alley in any city or town.
- (2) Nothing contained in this section or in the sections referred to in Subsection (1) shall be construed to exempt any railway company from keeping every portion of every street and alley used by it and upon or across which tracks shall be constructed at or near the grade of such streets in good and safe condition for public travel, but it shall keep the same planked, paved, macadamized or otherwise in such condition for public travel as the governing body of the city or town may from time to time direct, keeping the plank, pavement or other surface of the street or alley level with the top of the rails of the track. The portions of the streets or alleys to be so kept and maintained by all such railway companies shall include all the space between their different rails and tracks and also a space outside of the outer rail of each outside track of at least two feet in width, and the tracks herein referred to shall include not only the main tracks but also all sidetracks, crossings and turnouts constructed for the use of such railways.

Amended by Chapter 27, 1969 General Session

10-7-27 Street railway companies to restore streets.

Every street railway company shall at its own expense restore the pavement, including the foundation thereof, of every street disturbed by it in the construction, reconstruction, removal or repair of its tracks, to the same condition as before the disturbance thereof, to the satisfaction of the governing body having charge of such street. The obligation imposed hereby shall, in cities other than cities of the first class, be in lieu and substitution of any and all other obligations of any such company to pave, repave or repair any street, or to pay any part of the cost thereof, and may be enforced in the same manner as similar obligations are or may be enforced under the laws of this state. Nothing herein contained shall be considered to relieve any such company from the repayment of any money which has heretofore been advanced or expended by any city for any paving heretofore done under or by virtue of a specific contract or agreement made and entered into between the board of commissioners or the city council of any city and such company providing for the repayment thereof, but the obligation for such repayment shall be and remain enforceable as if this section had not been passed.

No Change Since 1953

10-7-29 Railway companies to repave streets.

All railway companies shall be required to pave or repave at their own cost all the space between their different rails and tracks and also a space two feet wide outside of the outer rails of the outside tracks in any city or town, including all sidetracks, crossings and turnouts used by such companies. Where two or more companies occupy the same street or alley with separate tracks each company shall be responsible for its proportion of the surface of the street or alley occupied by all the parallel tracks as herein required. Such paving or repaving by such railway companies shall be done at the same time and shall be of the same material and character as the paving or repaving of the streets or alleys upon which the track or tracks are located, unless other material is specially ordered by the municipality. Such railway companies shall be required to keep that portion of the street which they are herein required to pave or repave in good and proper repair, using for that purpose the same material as the street upon which the track or tracks are laid at the point of repair or such other material as the governing body of the city may require and order; and as streets are hereafter paved or repaved street railway companies shall be required to lay in the best approved manner a rail to be approved by the governing body of the city. The tracks of all railway companies when located upon the streets or avenues of a city or town shall be kept in repair and safe in all respects for the use of the traveling public, and such companies shall be liable for all damages resulting by reason of neglect to keep such tracks in repair, or for obstructing the streets. For injuries to persons or property arising from the failure of any such company to keep its tracks in proper repair and free from obstructions such company shall be liable and the city or town shall be exempt from liability. The word "railway companies" as used in this section shall be taken to mean and include any persons, companies, corporations or associations owning or operating any street or other railway in any city or town.

No Change Since 1953

10-7-30 Failure to pay for repairs -- Lien on company's property.

In the event of the refusal of any such company to pave, repave or repair as required herein when so directed, upon the paving or repaving of any street upon which its track is laid, the municipality shall have power to pave, repave or repair the same, and the cost and expense of such paving, repaving or repairing may be collected by levy and sale of any property of such company in the same manner as special taxes are now or may be collected. Special taxes for

the purpose of paying the cost of any such paving or repaving, macadamizing or repairing of any such railway may be levied upon the track, including the ties, iron, roadbed, right of way, sidetracks and appurtenances, and buildings and real estate belonging to any such company and used for the purpose of such railway business all as one property, or upon such parts of such track, appurtenances and property as may be within the district paved, repaved, macadamized or repaired, and shall be a lien upon the property levied upon from the time of the levy until satisfied. No mortgage, conveyance, pledge, transfer or encumbrance of any such property or of any rolling stock or personal property of any such company, created or suffered by it after the time when any street or part thereof upon which any railway shall have been laid shall have been ordered paved, repaved, macadamized or repaired shall be made or suffered except subject to the lien of such special taxes, if such levy is in contemplation.

No Change Since 1953

10-7-31 Sale of property to satisfy claims for special taxes.

The city treasurer shall have the power and authority to seize any personal property belonging to any such company for the satisfaction of any such special taxes when delinquent, and to sell the same upon advertisement and in the same manner as constables are now or may be authorized to sell personal property upon execution; but failure so to do shall in no wise affect or impair the lien of the tax or any proceeding allowed by law for the enforcement thereof. The railroad track or any other property upon which such special taxes shall be levied, or so much thereof as may be necessary, may be sold for the payment of such special taxes in the same manner and with the same effect as real estate upon which special taxes are levied may be sold.

No Change Since 1953

10-7-32 Actions to recover taxes.

It shall also be competent for any municipality to bring a civil action against any party owning or operating any such railway liable to pay such taxes to recover the amount thereof, or any part thereof, delinquent and unpaid, in any court having jurisdiction of the amount, and obtain judgment and have execution therefor, and no property, real or personal, shall be exempt from any such execution; provided, that real estate may not be levied upon by execution except by execution out of the district court on judgment therein, or transcript of judgment filed therein, as is now or hereafter may be provided by law. No defense shall be allowed in any such civil action except such as goes to the groundwork, equity and justice of the tax, and the burden of proof shall rest upon the party assailing the tax. In case part of such special tax shall be shown to be invalid, unjust or inequitable, judgment shall be rendered for such amount as is just and equitable.

Amended by Chapter 378, 2010 General Session

10-7-33 Delinquent taxes -- Installment payments -- Election and waiver.

It shall be competent for the governing body, upon the written application of any company owning any such railway, to provide that such special taxes shall become delinquent and be payable in installments as in case of taxes levied upon abutting real estate as herein provided, but such application shall be taken and deemed a waiver of any and all objections to such taxes and the validity thereof. Such application shall be made at or before the final levy of such taxes.

No Change Since 1953

Part 11

Actions for Violations of Ordinances

10-7-65 Party plaintiff -- Successive actions permitted.

All actions brought to recover any fine or to enforce any penalty under an ordinance of a city or town shall be brought in the corporate name of the city or town as plaintiff. No prosecution, recovery, or acquittal for the violation of any such ordinance shall constitute a defense to any other prosecution of the same person for any other violation of any such ordinance although the different causes of action existed at the same time and if united would not have exceeded the jurisdiction of a justice court judge.

Amended by Chapter 59, 1990 General Session

10-7-66 Fines and forfeitures to be paid to treasurer -- Exceptions.

Except where otherwise provided by law in relation to fines, fees, and forfeitures imposed or received by district courts, all fines and forfeitures for the violation of ordinances shall be paid into the treasury of the corporation at such times and in such manner as may be prescribed by ordinance.

Amended by Chapter 198, 1996 General Session

10-7-67 Pleading -- Reference to ordinance -- Judgment enforced by imprisonment.

In all actions for the violation of any ordinance it shall be sufficient if the complaint refers to the title and section of the ordinance under which such action is brought. Any person upon whom any fine or penalty shall be imposed may upon the order of the court before whom the conviction is had be committed to the county jail or the city prison or to such other place as may be provided for the incarceration of offenders until such fine, penalty and costs shall be fully paid.

No Change Since 1953

10-7-68 Service of process and arrests.

Any peace officer may serve any process or make any arrest authorized to be made by any city or town officer.

No Change Since 1953

10-7-69 Corporations may be complained against.

A corporation violating any of the provisions of a city or town ordinance may be complained against the same as a natural person.

No Change Since 1953

10-7-70 Corporate violation -- Summons -- Forms.

Whenever complaint is made against a corporation for violation of a city or town ordinance summons shall be issued thereon substantially in the following form:

State of Utah,

County of _____

In the _____ court, in and for the city (or town) of _____, county of _____
_____ city, (or town) _____

vs. _____

SUMMONS.

The state of Utah, to (naming the corporation):

You are hereby summoned to be and appear before the above entitled court at the courtroom thereof on the _____ day of _____ at the hour of _____ o'clock ____m., then and there to answer a charge made against you upon the complaint of _____ for (designating the offense in general terms), a copy of which complaint is hereto attached.
_____(month\day\year).

Witness:

The Honorable

Judge of said court.

Clerk

By

Deputy Clerk.

In courts having a clerk the summons, with a copy of the complaint attached, shall be signed by the clerk thereof, and in courts having no clerk the summons shall be signed by the judge or justice thereof.

Amended by Chapter 75, 2000 General Session

10-7-71 Corporate violation -- Summons -- Time and manner of service.

The summons and copy of complaint shall be served at least 24 hours before the hour of appearance fixed therein by delivering to and leaving a copy thereof with the president or other head of the corporation, or the secretary, the cashier, or the managing or process agent thereof, and by showing to him the original summons.

Amended by Chapter 378, 2010 General Session

10-7-72 Appearance by agent of corporation -- Bench warrant for default.

At the time appointed in the summons, the corporation shall appear by agent or attorney and plead thereto the same as a natural person. In case no appearance is made on or before the hour appointed, the court may issue a bench warrant for the person served as the officer or agent of the corporation, requiring him to be brought forthwith before the court to plead on its behalf.

Amended by Chapter 378, 2010 General Session

10-7-73 Corporate violation -- Hearing -- Penalty imposed to be a fine.

After the plea of the corporation is entered the court shall fix a time for the hearing of the cause, and thereafter the proceedings therein shall be the same as in the cases of natural persons charged with violating a city or town ordinance, except that in cases of conviction the penalty imposed in all instances shall be by way of fine.

Amended by Chapter 378, 2010 General Session

10-7-74 Execution on judgment against corporation.

Whenever a fine and costs, either or both, shall be imposed upon a corporation upon conviction for a violation of a city or town ordinance, judgment therefor may be collected on execution issued out of the court in the same manner as an execution in a civil action.

No Change Since 1953

10-7-76 Payment of witness fees and mileage.

Whenever a criminal action arising out of the violation of a city or town ordinance is tried on appeal, the per diems and mileage of witnesses for the prosecution shall be paid out of the treasury of the city or town in which such action originated.

No Change Since 1953

Part 13

City Resources

10-7-79 Power of board of city commissioners or council to provide for development of resources.

The boards of city commissioners or city councils of the respective cities within the state are authorized and empowered to provide for the development of the city's mineral, water, manpower, industrial and other resources.

Enacted by Chapter 16, 1965 General Session

10-7-80 Development committee -- Appointment of members -- Terms, compensation and expenses, vacancies and removal of members.

The board of city commissioners or council of any city within the state is hereby authorized and empowered to appoint by resolution an unpaid commission of three or more members, to be known as the city resource development committee. One or more members of the board of city commissioners or council shall be designated by the board of city commissioners or council as members of such committee. Each of the other members of the committee shall be a resident of the city. The term of appointed members of the committee shall be two years and until their respective successors have been appointed. The members of the committee shall serve as such without compensation, except that the board of city commissioners or council may provide for reimbursement of the members of the committee for actual expenses incurred, upon presentation of proper receipts and vouchers. The board of city commissioners or council shall provide for the filling of vacancies in the membership of the committee and for the removal of a member for nonperformance of duty or misconduct.

Enacted by Chapter 16, 1965 General Session

10-7-81 Development committee -- Election of officers -- Employment of executive director.

The city resource development committee may elect such officers from its members as it may deem advisable and may, with consent and approval of the board of city commissioners or council, employ an executive director for the committee.

Enacted by Chapter 16, 1965 General Session

10-7-82 Development committee -- Functions.

It shall be the function of the city resource development committee to assist in the development of the city's mineral, water, manpower, industrial and other resources, and to make such recommendations to the board of city commissioners or council for resource development programs as it may deem advisable.

Enacted by Chapter 16, 1965 General Session

10-7-83 Power of board of city commissioners or council to contract with other authorities.

The board of city commissioners or council may co-operate with and enter into contracts with other municipalities, local communities and counties for the purpose of promoting the development of the economic resources of their respective areas.

Enacted by Chapter 16, 1965 General Session

10-7-84 Expenditure of city funds authorized.

The board of city commissioners or council may expend city funds as are deemed advisable to carry out the purposes of this act.

Enacted by Chapter 16, 1965 General Session

10-7-85 Support of the arts.

The governing body of any municipality may provide for and appropriate funds for the support of the arts, including music, dance, theatre, crafts and visual, folk and literary art, for the purpose of enriching the lives of its residents and may establish guidelines for the support of the arts.

Amended by Chapter 378, 2010 General Session

10-7-86 Municipality may adopt Utah Procurement Code -- Hiring of professional architect, engineer, or surveyor.

- (1) The governing body of any municipality may adopt any or all of the provisions of Title 63G, Chapter 6a, Utah Procurement Code, or the rules promulgated pursuant to that code.
- (2) Notwithstanding Subsection (1), the governing body of each municipality that engages the services of a professional architect, engineer, or surveyor and considers more than one such professional for the engagement:
 - (a) shall consider, as a minimum, in the selection process:
 - (i) the qualifications, experience, and background of each firm submitting a proposal;

- (ii) the specific individuals assigned to the project and the time commitments of each to the project; and
- (iii) the project schedule and the approach to the project that the firm will take; and
- (b) may engage the services of a professional architect, engineer, or surveyor based on the criteria under Subsection (2)(a) rather than solely on lowest cost.

Amended by Chapter 347, 2012 General Session

Chapter 8 Powers and Duties of Municipalities

Part 1 General Powers

10-8-1 Control of finances and property.

The boards of commissioners and city councils of cities shall have the power to control the finances and property of the corporation.

No Change Since 1953

10-8-1.5 Authority to make benefits generally available to employees, their dependents, and an adult designee -- Registry authorized -- Limitations.

- (1) A municipality may, by ordinance enacted by the municipal legislative body, make benefits generally available to all municipal employees, their dependents, and an unmarried employee's financially dependent or interdependent adult designee.
- (2)
 - (a) Subject to Subsection (2)(b), a municipality may, by ordinance enacted by the municipal legislative body, create a registry for adult relationships of financial dependence or interdependence.
 - (b) A municipality may not create or maintain a registry or other means that defines, identifies, or recognizes and gives legal status or effect to a domestic partnership, civil union, or domestic cohabitation relationship other than marriage.
- (3) The municipality's recognition of an adult designee, the creation and maintenance of a registry under Subsection (2)(a), and any certificate issued to or other designation of a person on the municipality's registry are not and may not be treated the same as or substantially equivalent to marriage.
- (4) Neither an ordinance under Subsection (1) or (2)(a) nor a registry created under Subsection (2)(a) making an employee benefit available to an adult designee may create, modify, or affect a spousal, marital, or parental status, duty, or right.
- (5) An ordinance, executive order, rule, or regulation adopted or other action taken before, on, or after May 5, 2008 that is inconsistent with this section is void.

Enacted by Chapter 127, 2008 General Session

10-8-1.7 Use of incremental tax revenue for relocation expenses of displaced mobile home park residents.

- (1) As used in this section:
- (a) "Displaced mobile home park resident" means a resident within a mobile home park who is required to relocate his or her residence from the mobile home park because of development activities that will change the use of the property on which the mobile home park is located.
 - (b) "Former mobile home park property" means property on which a mobile home park was located but whose use has changed from a mobile home park because of development activities that require mobile home park residents to relocate.
 - (c) "Incremental tax revenue" means property tax revenue that:
 - (i) is generated from a former mobile home park property located within a municipality;
 - (ii) exceeds the amount of property tax revenue the former mobile home park property would have generated if its use had not changed from a mobile home park; and
 - (iii) is levied and collected by:
 - (A) the municipality in which the former mobile home park property is located; or
 - (B) another taxing entity.
 - (d) "Taxing entity" has the same meaning as defined in Section 59-2-102.
- (2) A municipality may use incremental tax revenue to pay some or all of the relocation expenses of a displaced mobile home park resident.
- (3) Any taxing entity may share some or all of its incremental tax revenue with a municipality for use as provided in Subsection (2).

Enacted by Chapter 98, 2009 General Session

10-8-2 Appropriations -- Acquisition and disposal of property -- Municipal authority -- Corporate purpose -- Procedure -- Notice of intent to acquire real property.

- (1)
- (a) A municipal legislative body may:
 - (i) appropriate money for corporate purposes only;
 - (ii) provide for payment of debts and expenses of the corporation;
 - (iii) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and dispose of real and personal property for the benefit of the municipality, whether the property is within or without the municipality's corporate boundaries, if the action is in the public interest and complies with other law;
 - (iv) improve, protect, and do any other thing in relation to this property that an individual could do; and
 - (v) subject to Subsection (2) and after first holding a public hearing, authorize municipal services or other nonmonetary assistance to be provided to or waive fees required to be paid by a nonprofit entity, whether or not the municipality receives consideration in return.
 - (b) A municipality may:
 - (i) furnish all necessary local public services within the municipality;
 - (ii) purchase, hire, construct, own, maintain and operate, or lease public utilities located and operating within and operated by the municipality; and
 - (iii) subject to Subsection (1)(c), acquire by eminent domain, or otherwise, property located inside or outside the corporate limits of the municipality and necessary for any of the purposes stated in Subsections (1)(b)(i) and (ii), subject to restrictions imposed by Title 78B, Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities.

- (c) Each municipality that intends to acquire property by eminent domain under Subsection (1)(b) shall comply with the requirements of Section 78B-6-505.
- (d) Subsection (1)(b) may not be construed to diminish any other authority a municipality may claim to have under the law to acquire by eminent domain property located inside or outside the municipality.
- (2)
 - (a) Services or assistance provided pursuant to Subsection (1)(a)(v) is not subject to the provisions of Subsection (3).
 - (b) The total amount of services or other nonmonetary assistance provided or fees waived under Subsection (1)(a)(v) in any given fiscal year may not exceed 1% of the municipality's budget for that fiscal year.
- (3) It is considered a corporate purpose to appropriate money for any purpose that, in the judgment of the municipal legislative body, provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality subject to the following:
 - (a) The net value received for any money appropriated shall be measured on a project-by-project basis over the life of the project.
 - (b) The criteria for a determination under this Subsection (3) shall be established by the municipality's legislative body. A determination of value received, made by the municipality's legislative body, shall be presumed valid unless it can be shown that the determination was arbitrary, capricious, or illegal.
 - (c) The municipality may consider intangible benefits received by the municipality in determining net value received.
 - (d)
 - (i) Prior to the municipal legislative body making any decision to appropriate any funds for a corporate purpose under this section, a public hearing shall be held.
 - (ii) Notice of the hearing described in Subsection (3)(d)(i) shall be published:
 - (A)
 - (I) in a newspaper of general circulation at least 14 days before the date of the hearing; or
 - (II) if there is no newspaper of general circulation, by posting notice in at least three conspicuous places within the municipality for the same time period; and
 - (B) on the Utah Public Notice Website created in Section 63F-1-701, at least 14 days before the date of the hearing.
 - (e) A study shall be performed before notice of the public hearing is given and shall be made available at the municipality for review by interested parties at least 14 days immediately prior to the public hearing, setting forth an analysis and demonstrating the purpose for the appropriation. In making the study, the following factors shall be considered:
 - (i) what identified benefit the municipality will receive in return for any money or resources appropriated;
 - (ii) the municipality's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality; and
 - (iii) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the municipality in the area of economic development, job creation, affordable housing, blight elimination, job preservation, the preservation of historic structures and property, and any other public purpose.
 - (f)

- (i) An appeal may be taken from a final decision of the municipal legislative body, to make an appropriation.
 - (ii) The appeal shall be filed within 30 days after the date of that decision, to the district court.
 - (iii) Any appeal shall be based on the record of the proceedings before the legislative body.
 - (iv) A decision of the municipal legislative body shall be presumed to be valid unless the appealing party shows that the decision was arbitrary, capricious, or illegal.
 - (g) The provisions of this Subsection (3) apply only to those appropriations made after May 6, 2002.
 - (h) This section applies only to appropriations not otherwise approved pursuant to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities.
- (4)
- (a) Before a municipality may dispose of a significant parcel of real property, the municipality shall:
 - (i) provide reasonable notice of the proposed disposition at least 14 days before the opportunity for public comment under Subsection (4)(a)(ii); and
 - (ii) allow an opportunity for public comment on the proposed disposition.
 - (b) Each municipality shall, by ordinance, define what constitutes:
 - (i) a significant parcel of real property for purposes of Subsection (4)(a); and
 - (ii) reasonable notice for purposes of Subsection (4)(a)(i).
- (5)
- (a) Except as provided in Subsection (5)(d), each municipality intending to acquire real property for the purpose of expanding the municipality's infrastructure or other facilities used for providing services that the municipality offers or intends to offer shall provide written notice, as provided in this Subsection (5), of its intent to acquire the property if:
 - (i) the property is located:
 - (A) outside the boundaries of the municipality; and
 - (B) in a county of the first or second class; and
 - (ii) the intended use of the property is contrary to:
 - (A) the anticipated use of the property under the general plan of the county in whose unincorporated area or the municipality in whose boundaries the property is located; or
 - (B) the property's current zoning designation.
 - (b) Each notice under Subsection (5)(a) shall:
 - (i) indicate that the municipality intends to acquire real property;
 - (ii) identify the real property; and
 - (iii) be sent to:
 - (A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and
 - (B) each affected entity.
 - (c) A notice under this Subsection (5) is a protected record as provided in Subsection 63G-2-305(8).
 - (d)
 - (i) The notice requirement of Subsection (5)(a) does not apply if the municipality previously provided notice under Section 10-9a-203 identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

- (ii) If a municipality is not required to comply with the notice requirement of Subsection (5)
 - (a) because of application of Subsection (5)(d)(i), the municipality shall provide the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real property.

Amended by Chapter 59, 2014 General Session

10-8-2.5 Prohibition against spending certain transportation funds.

- (1) As used in this section:
 - (a) "Apportioned" means divided or assigned among the states based on a prescribed formula established in 23 U.S.C.
 - (b) "Authorization act" means an act of Congress enacted after July 1, 2009 that authorizes transportation programs from the Highway Trust Fund established in 26 U.S.C. Sec. 9503.
- (2) A municipality may not spend project-specific funds that are allocated through an authorization act for a transportation-related project that is eligible for funds apportioned to the state in support of the statewide transportation improvement program unless the specified project is included on the statewide transportation improvement program.

Enacted by Chapter 332, 2009 General Session

10-8-3 Tax districts.

They may divide the city into districts for the purpose of local taxation as occasion may require.

No Change Since 1953

10-8-4 Special taxes and licenses.

- (1) Municipal legislative bodies may:
 - (a) subject to Subsection (2), fix the amount, terms, and manner of issuing licenses; and
 - (b) consistent with general law, provide the manner and form in which special taxes are levied and collected.
- (2)
 - (a) Municipal legislative bodies may not discriminate between resident community businesses and nonresident community businesses in establishing license requirements.
 - (b) Municipal legislative bodies may not impose motor vehicle delivery license fees on persons or entities who:
 - (i) are licensed as dealers in another municipality; or
 - (ii) do not have a permanent business location in the municipality.

Amended by Chapter 78, 2008 General Session

10-8-5 Erection and care of buildings.

They may erect all needful buildings for the use of the city, and provide for their care.

No Change Since 1953

10-8-6 Borrowing power -- Warrants and bonds.

They may borrow money on the credit of the corporation for corporate purposes in the manner and to the extent allowed by the Constitution and the laws, and issue warrants and bonds therefor in such amounts and forms and on such conditions as they shall determine.

No Change Since 1953

10-8-7 Refunding bonds -- Purpose of issuance.

They may issue bonds in place of or to supply means to meet maturing bonds or for the consolidation or refunding of the same.

No Change Since 1953

10-8-8 Streets, parks, airports, parking facilities, public grounds, and pedestrian malls.

A municipal legislative body may lay out, establish, open, alter, widen, narrow, extend, grade, pave, or otherwise improve streets, alleys, avenues, boulevards, sidewalks, parks, airports, parking lots, or other facilities for the parking of vehicles off streets, public grounds, and pedestrian malls and may vacate the same or parts thereof, as provided in this title.

Amended by Chapter 254, 2005 General Session

10-8-8.6 Widening a street or alley.

Before a city may widen a street or alley in such a way that access to underground facilities is affected, the city shall notify in writing, and consult with, the owners or operators of the underground facilities, as defined in Section 54-8a-2, and utility facilities within the street or alley.

Enacted by Chapter 180, 1995 General Session

10-8-9 Bathhouses, playgrounds.

They may establish, maintain and provide for the supervision of bathhouses, public playgrounds, recreation places and swimming pools.

No Change Since 1953

10-8-10 Trees.

They may plant, or direct and regulate the planting of, ornamental shade trees in streets, parks and public grounds.

No Change Since 1953

10-8-11 Streets -- Encroachments, lighting, sprinkling, cleaning.

They may regulate the use of streets, alleys, avenues, sidewalks, crosswalks, parks and public grounds, prevent and remove obstructions and encroachments thereon, and provide for the lighting, sprinkling and cleaning of the same.

No Change Since 1953

10-8-13 Conduits, drains, etc.

They may regulate the opening and use of streets, alleys, sidewalks, crosswalks and public grounds for the laying of gas or water mains and of conduits and pipes, and the building and repairing of sewers, tunnels, conduits and drains.

No Change Since 1953

10-8-14 Water, sewer, gas, electricity, and public transportation -- Service beyond municipal limits -- Retainage -- Notice of service and agreement -- Cable television and public telecommunications services.

- (1) A municipality may:
- (a) construct, maintain, and operate waterworks, sewer collection, sewer treatment systems, gas works, electric light works, telecommunications lines, cable television lines, or public transportation systems;
 - (b) authorize the construction, maintenance and operation of the works or systems listed in Subsection (1)(a) by others;
 - (c) purchase or lease the works or systems listed in Subsection (1)(a) from any person or corporation; and
 - (d) sell and deliver the surplus product or service capacity of any works or system listed in Subsection (1)(a), not required by the municipality or the municipality's inhabitants, to others beyond the limits of the municipality, except the sale and delivery of:
 - (i) retail electricity beyond the municipal boundary is governed by Subsections (3) through (8); and
 - (ii) cable television services or public telecommunications services is governed by Subsection (11).
- (2) If any payment on a contract with a private person, firm, or corporation to construct waterworks, sewer collection, sewer treatment systems, gas works, electric works, telecommunications lines, cable television lines, or public transportation systems is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.
- (3)
- (a) Except as provided in Subsection (3)(b), (5), or (9), a municipality may not sell or deliver the electricity produced or distributed by its electric works constructed, maintained, or operated in accordance with Subsection (1) to a retail customer located beyond its municipal boundary.
 - (b) A municipality that provides retail electric service to a customer beyond its municipal boundary on or before June 15, 2013, may continue to serve that customer if:
 - (i) on or before December 15, 2013, the municipality provides the electrical corporation, as defined in Section 54-2-1, that is obligated by its certificate of public convenience and necessity to serve the customer with an accurate and complete verified written notice described in Subsection (3)(c) that identifies each customer served by the municipality beyond its municipal boundary;
 - (ii) no later than June 15, 2014, the municipality enters into a written filing agreement for the provision of electric service with the electrical corporation; and
 - (iii) the Public Service Commission approves the written filing agreement in accordance with Section 54-4-40.
 - (c) The municipality shall include in the written notice required in Subsection (3)(b)(i) for each customer:
 - (i) the customer's meter number;
 - (ii) the location of the customer's meter by street address, global positioning system coordinates, metes and bounds description, or other similar method of meter location;
 - (iii) the customer's class of service; and
 - (iv) a representation that the customer was receiving service from the municipality on or before June 15, 2013.

- (4) The written filing agreement entered into in accordance with Subsection (3)(b)(ii) shall require the following:
 - (a) The municipality shall provide electric service to a customer identified in accordance with Subsection (3)(b)(i) unless the municipality and the electrical corporation subsequently agree in writing that the electrical corporation will provide electric service to the customer.
 - (b) If a customer who is located outside the municipal boundary and who is not identified in accordance with Subsection (3)(b)(i) requests service from the municipality after June 15, 2013, the municipality may not provide that customer electric service unless the municipality submits a request to and enters into a written agreement with the electric corporation in accordance with Subsection (5).
- (5)
 - (a) A municipality may submit to the electrical corporation a request to provide electric service to an electric customer described in Subsection (4)(b).
 - (b) If a municipality submits a request, the electrical corporation shall respond to the request within 60 days.
 - (c) If the electrical corporation agrees to allow the municipality to provide electric service to the customer:
 - (i) the electrical corporation and the municipality shall enter into a written agreement;
 - (ii) the municipality shall agree in the written agreement to subsequently transfer service to the customer described in Subsection (4)(b) if the electrical corporation notifies, in writing, the municipality that the electrical corporation has installed a facility capable of providing electric service to the customer; and
 - (iii) the municipality may provide the service if:
 - (A) except as provided in Subsection (5)(c)(iii)(B), the Public Service Commission approves the agreement in accordance with Section 54-4-40; or
 - (B) for an electrical cooperative that meets the requirements of Subsection 54-7-12(7), the governing board of the electrical cooperative approves the agreement.
 - (d) The municipality or the electrical corporation may terminate the agreement for the provision of electric service if the Public Service Commission imposes a condition authorized in Section 54-4-40 that is a material change to the agreement.
- (6) If the municipality and electrical corporation make a transfer described in Subsection (5)(c)(ii):
 - (a)
 - (i) the municipality shall transfer the electric service customer to the electrical corporation; and
 - (ii) the electrical corporation shall provide electric service to the customer; and
 - (b) the municipality shall transfer a facility in accordance with and for the value as provided in Section 10-2-421.
- (7)
 - (a) In accordance with Subsection (7)(b), the municipality shall establish a reasonable mechanism for resolving potential future complaints by an electric customer located outside its municipal boundary.
 - (b) The mechanism shall require:
 - (i) that the rates and conditions of service for a customer outside the municipality's boundary are at least as favorable as the rates and conditions of service for a similarly situated customer within the municipality's boundary; and
 - (ii) if the municipality provides a general rebate, refund, or other payment to a customer located within the municipality's boundary, that the municipality also provide the same general rebate, refund, or other payment to a similarly situated customer located outside the municipality's boundary.

- (8) The municipality is relieved of any obligation to transfer a customer described in Subsection (4)(b) or facility used to serve the customer in accordance with Subsection (5)(c)(ii) if the municipality annexes the property on which the customer is being served.
- (9)
- (a) A municipality may provide electric service outside of its municipal boundary to a facility that is solely owned and operated by the municipality for municipal service.
 - (b) A municipality's provision of electric service to a facility that is solely owned and operated by the municipality does not expand the municipality's electric service area.
- (10) Nothing in this section expands or diminishes the ability of a municipality to enter into a wholesale electrical sales contract with another municipality that serves electric customers to sell and deliver wholesale electricity to the other municipality.
- (11) A municipality's actions under this section related to works or systems involving public telecommunications services or cable television services are subject to the requirements of Chapter 18, Municipal Cable Television and Public Telecommunications Services Act.

Amended by Chapter 55, 2014 General Session

10-8-14.5 Utility easements -- Use for water or sewerage service.

- (1) If a municipality grants a general utility easement for the provision of electric, gas, or telephone service, the grant may also provide that the easement may be used by the corporation or other entity that provides water or sewerage service to the municipality's residents.
- (2) A general utility easement described in Subsection (1) is subject to the provisions imposed on a public utility easement under Section 54-3-27.
- (3) If a municipality acquires a utility easement through the exercise of its eminent domain power for use under this section, the owner of the servient estate may realign the easement at the servient estate owner's expense unless the alignment cannot be reasonably changed because of engineering or safety requirements.

Amended by Chapter 246, 2007 General Session

10-8-15 Waterworks -- Construction -- Extraterritorial jurisdiction.

They may construct or authorize the construction of waterworks within or without the city limits, and for the purpose of maintaining and protecting the same from injury and the water from pollution their jurisdiction shall extend over the territory occupied by such works, and over all reservoirs, streams, canals, ditches, pipes and drains used in and necessary for the construction, maintenance and operation of the same, and over the stream or source from which the water is taken, for 15 miles above the point from which it is taken and for a distance of 300 feet on each side of such stream and over highways along such stream or watercourse within said 15 miles and said 300 feet; provided, that the jurisdiction of cities of the first class shall be over the entire watershed, except that livestock shall be permitted to graze beyond one thousand feet from any such stream or source; and provided further, that each city of the first class shall provide a highway in and through its corporate limits, and so far as its jurisdiction extends, which may not be closed to cattle, horses, sheep or hogs driven through any such city, or through any territory adjacent thereto over which such city has jurisdiction, but the board of commissioners of such city may enact ordinances placing under police regulations the manner of driving such cattle, sheep, horses and hogs through such city, or any territory adjacent thereto over which it has jurisdiction. They may enact all ordinances and regulations necessary to carry the power herein conferred into effect, and are authorized and empowered to enact ordinances preventing pollution or contamination of

the streams or watercourses from which the inhabitants of cities derive their water supply, in whole or in part, for domestic and culinary purposes, and may enact ordinances prohibiting or regulating the construction or maintenance of any closet, privy, outhouse or urinal within the area over which the city has jurisdiction, and provide for permits for the construction and maintenance of the same. In granting such permits they may annex thereto such reasonable conditions and requirements for the protection of the public health as they deem proper, and may, if deemed advisable, require that all closets, privies and urinals along such streams shall be provided with effective septic tanks or other germ-destroying instrumentalities.

Amended by Chapter 378, 2010 General Session

10-8-16 Watercourses leading to and within city -- Mill privileges.

They may control the water and watercourses leading to the city and regulate and control the watercourses and mill privileges within the city; provided, that the control may not be exercised to the injury of any right already acquired by actual owners.

Amended by Chapter 378, 2010 General Session

10-8-17 City may act as distributing agent -- Collection of operating costs from users.

When the governing body of a city is acting as distributing agent of water, not the property of the corporation, outside of or within its corporate limits, the governing body may annually prior to the commencement of the irrigation season determine and fix the sum deemed necessary to meet the expense of the current year for the purpose of controlling, regulating and distributing such water and constructing and keeping in repair the necessary means for diverting, conveying and distributing the same, and they may collect such sum from the persons entitled to the use of such water, pro rata according to acreage, whether the acreage is situate within or without the corporate boundary of the city; provided, that the funds so derived may not be appropriated or used for any other purpose, and in the event that a greater sum is collected in any one year than is necessary for said purpose, the excess thereof shall be carried to the account of the year next following and applied to the purpose for which it was collected. Such sum shall be fixed and collected as provided by ordinance, and until collected the same shall be a lien on such water rights and the land irrigated thereby.

Amended by Chapter 378, 2010 General Session

10-8-18 Acquisition of water sources -- Retainage.

- (1) They may construct, purchase or lease and maintain canals, ditches, artesian wells and reservoirs, may appropriate, purchase or lease springs, streams or sources of water supply for the purpose of providing water for irrigation, domestic or other useful purposes; may prevent all waste of water flowing from artesian wells, and if necessary to secure sources of water supply, may purchase or lease land; they may also purchase, acquire or lease stock in canal companies and water companies for the purpose of providing water for the city and the inhabitants thereof.
- (2) If any payment on a contract with a private person, firm, or corporation to construct canals, ditches, artesian wells, or reservoirs is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

Amended by Chapter 365, 1999 General Session

10-8-19 Water supply -- Special tax for increasing supply when city acting as distributing agent.

Whenever a city is acting as distributing agent of water, not the property of the corporation, outside of or within the corporate limits of such city, upon written petition of the owners of such water, it may increase the supply of water owned by such persons by any means provided in Section 10-8-18, and for that purpose may levy and collect from the owners of such water a tax not exceeding such sum per acre of land owned by such persons as may have been agreed upon and designated in said petition; said tax when so collected to be appropriated exclusively to said purposes, except such part thereof as is necessary to pay the expense of levying and collecting the same. Said tax shall constitute a lien upon the water rights of the persons and the land irrigated thereby, and shall be levied and collected as provided in Section 10-8-17.

No Change Since 1953

10-8-20 Lighting works -- Contracts -- Retainage.

- (1) They may contract with and authorize any person, company or association to construct gas works, electric or other lighting works within the city, and give such persons, company or association the privilege of furnishing light for the public buildings, streets, sidewalks and alleys of the city for any length of time not exceeding three years.
- (2) If any payment on a contract with a private person, firm, or corporation to construct gas works, electric or other lighting works within the city is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

Amended by Chapter 365, 1999 General Session

10-8-21 Lighting facilities -- Sale of gas and electric power -- Erection and removal of poles and wires.

They may provide for the lighting of streets and the erection of necessary appliances and lamp posts; may regulate the sale and use of gas, natural gas and electric or other lights and electric power within the city, and regulate the inspection of meters therefor; may prohibit or regulate the erection of telegraph, telephone or electric wire poles in the public grounds, streets or alleys, and the placing of wires thereon; and may require the removal from the public grounds, streets or alleys of any or all such poles, and the placing underground of any or all telegraph, telephone or electric wires.

No Change Since 1953

10-8-22 Water rates.

They may fix the rates to be paid for the use of water furnished by the city.

No Change Since 1953

10-8-23 Sidewalks -- Regulation and control -- Owners required to remove weeds, litter, snow and ice.

They may regulate and control the use of sidewalks and all structures thereunder or thereover; and they may require the owner or occupant, or the agent of any owner or occupant, of property to remove all weeds and noxious vegetation from such property, and in front thereof to the curb

line of the street, and to keep the sidewalks in front of such property free from litter, snow, ice and obstructions.

No Change Since 1953

10-8-24 Litter in streets.

They may regulate and prevent the throwing or depositing of ashes, offal, dirt, garbage or any offensive matter in, and prevent injury or obstruction to, any street, sidewalk, avenue, alley, park or public ground.

No Change Since 1953

10-8-25 Crosswalks, curbs and gutters.

They may provide for and regulate the use of crosswalks, curbs and gutters.

No Change Since 1953

10-8-26 Signs and advertising material.

They may regulate or prevent the use of streets, sidewalks, public buildings and grounds for signs, signposts, awnings, horse troughs or racks, or for posting handbills or advertisements.

No Change Since 1953

10-8-27 Placards and handbills.

They may regulate or prohibit the exhibition, distribution or carrying of placards or handbills on the streets, public grounds or sidewalks.

No Change Since 1953

10-8-28 Flags and banners.

They may regulate or prevent the flying of flags, banners or signs across the streets or from houses.

No Change Since 1953

10-8-29 Sales and merchandising on streets.

They may regulate merchandising and sales upon the streets, sidewalks and public places.

No Change Since 1953

10-8-30 Traffic regulations.

They may regulate the movement of traffic on the streets, sidewalks and public places, including the movement of pedestrians as well as of vehicles, and the cars and engines of railroads, street railroads and tramways, and may prevent racing and immoderate driving or riding.

No Change Since 1953

10-8-31 Numbering houses and lots.

They may regulate the numbering of houses and lots.

No Change Since 1953

10-8-32 Naming streets and public places.

They may name streets, courts, parks, thoroughfares and other public places and change the names thereof.

No Change Since 1953

10-8-33 Railroads -- Tracks and franchises.

They may permit, regulate or prohibit the locating, constructing or laying of the tracks of any railroad, or tramway in any street, alley or public place; and may by ordinance grant franchises to railroad and street railroad companies, and to union railroad depot companies, to lay, maintain and operate in any street or part or parts of streets or other public places tracks therefor, but such permission may not be exclusive or for a longer time than 100 years.

Amended by Chapter 378, 2010 General Session

10-8-34 Change of grade and crossings -- Nonuser as grounds for removal.

They may provide for or change the location, grade or crossing of any railroad; and declare a nuisance and take up and remove, or cause to be taken up and removed, the tracks of any railroad or street railway company which shall have been laid upon the streets of the city and which such railway company has failed to operate with cars for public use for a period of nine months after the laying thereof.

No Change Since 1953

10-8-35 Fences, cattle guards and street crossings -- Duty of railroads.

They may require railroad companies to fence their respective railroads or any portion of the same, and to construct cattle guards, crossings of streets and public roads, and keep the same in repair within the limits of the corporation.

No Change Since 1953

10-8-36 Flagmen -- Grade crossings -- Drains along tracks.

They may require railroad companies to keep flagmen at railroad crossings of streets, or otherwise provide protection against injury to persons or property; may compel railroad and street railroad companies to raise or lower their tracks to conform to any grade which at any time may be established by the city, so that such tracks may be crossed at any place on any street, alley or highway; may compel railway companies to make and keep open, and keep in repair, ditches, drains, sewers and culverts along and under their tracks, so that the natural or artificial drainage of adjacent property may not be impaired.

Amended by Chapter 378, 2010 General Session

10-8-37 Construction, repair, and maintenance of bridges, viaducts, and tunnels -- Retainage.

- (1) They may construct and keep in repair bridges, viaducts and tunnels, and regulate the use thereof.
- (2) If any payment on a contract with a private person, firm, or corporation to construct bridges, viaducts, or tunnels is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

Amended by Chapter 365, 1999 General Session

10-8-38 Drainage and sewage systems -- Construction regulation and control -- Retainage -- Mandatory hookup -- Charges for use -- Collection of charges -- Service to tenants -- Failure to pay for service -- Service outside municipality.

- (1)
 - (a) Boards of commissioners, city councils, and boards of trustees of cities and towns may construct, reconstruct, maintain, and operate, sewer systems, sewage treatment plants, culverts, drains, sewers, catch basins, manholes, cesspools, and all systems, equipment, and facilities necessary to the proper drainage, sewage, and sanitary sewage disposal requirements of the city or town and regulate the construction and use thereof.
 - (b) If any payment on a contract with a private person, firm, or corporation to construct or reconstruct sewer systems, sewage treatment plants, culverts, drains, sewers, catch basins, manholes, cesspools, and other drainage and sewage systems is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.
- (2)
 - (a) In order to defray the cost of constructing, reconstructing, maintaining, or operating a sewer system or sewage treatment plant, a municipality may:
 - (i) require connection to the sewer system if the sewer is available and within 300 feet of the property line of a property with a building used for human occupancy; and
 - (ii) make a reasonable charge for the use of the sewer system.
 - (b) A municipality operating a waterworks system and a sewer system or sewage treatment plant may:
 - (i) make one charge for the combined use of water and the services of the sewer system or sewage treatment plant; and
 - (ii) adopt an ordinance requiring a property owner desiring water and sewer service to submit a written application, signed by the owner or the owner's authorized agent, agreeing to pay, according to the ordinance enacted by the municipality, for the water and sewer service furnished the owner.
 - (c)
 - (i) If a person fails to connect to the sewer when connection is required under Subsection (2)(a) (i) or fails to pay for the sewer service as required under applicable municipal ordinances, then the municipality may cause the water to be shut off from the premises until the person has:
 - (A) hooked up to the sewer at the person's own expense; or
 - (B) paid in full for all sewer service.
 - (ii) A municipality may not use an owner's failure to pay for sewer service furnished to the owner's property as a basis for not furnishing water to the property after ownership of the property is transferred to a subsequent owner.
 - (d) A municipality may sell and deliver water or sewer services to others beyond the limits of the municipality from the surplus capacity of the municipality's waterworks or sewer system.

Amended by Chapter 316, 2004 General Session

10-8-41 Prostitution, lewd or perverted acts, gambling, and obscene or lewd publications.

- (1) Boards of commissioners and city councils of cities may suppress and prohibit the keeping of disorderly houses, houses of ill fame or assignation, or houses kept by, maintained for, or resorted to or used by, one or more persons for acts of perversion, lewdness, or prostitution within the limits of the city and within three miles of the outer boundaries thereof, and may prohibit resorting thereto for any of the purposes aforesaid; they may also make it unlawful for any person to commit or offer or agree to commit an act of sexual intercourse for hire, lewdness, or moral perversion within the city, or for any person to secure, induce, procure, offer, or transport to any place within the city any person for the purpose of committing an act of sexual intercourse for hire, lewdness, or moral perversion, or for any person to receive or direct or offer or agree to receive or direct any person into any place or building within the city for the purpose of committing an act of sexual intercourse for hire, lewdness, or moral perversion, or for any person to aid, abet, or participate in the commission of any of the foregoing; and they may also suppress and prohibit gambling houses and gambling, lotteries and all fraudulent devices and practices, and all kinds of gaming, playing at dice or cards, and other games of chance, and the sale, distribution, or exhibition of obscene or lewd publications, prints, pictures, or illustrations.
- (2)
 - (a) A woman's breast feeding, including breast feeding in any place where the woman otherwise may rightfully be, does not under any circumstance constitute an obscene or lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.
 - (b) Boards of commissioners and city councils of cities may not prohibit a woman's breast feeding in any location where she otherwise may rightfully be, irrespective of whether the breast is uncovered during or incidental to the breast feeding.

Amended by Chapter 131, 1995 General Session

10-8-41.5 Regulation of sexually oriented business.

- (1) As used in this section:
 - (a) "Adult service" means dancing, serving food or beverages, modeling, posing, wrestling, singing, reading, talking, listening, or other performances or activities conducted by a nude or partially denuded individual for compensation.
 - (b) "Compensation" means:
 - (i) a salary;
 - (ii) a fee;
 - (iii) a commission;
 - (iv) employment;
 - (v) a profit; or
 - (vi) other pecuniary gain.
 - (c)
 - (i) "Escort" means a person who, for compensation, dates, socializes with, visits, consorts with, or accompanies another, or offers to date, consort with, socialize with, visit, or accompany another:
 - (A) to a social affair, entertainment, or a place of amusement; or
 - (B) within:
 - (I) a place of public or private resort;

- (II) a business or commercial establishment; or
 - (III) a private quarter.
- (ii) "Escort" does not mean a person who provides business or personal services, including:
 - (A) a licensed private nurse;
 - (B) an aide for the elderly or a person with a disability;
 - (C) a social secretary or similar service personnel:
 - (I) whose relationship with a patron is characterized by a contractual relationship having a duration of 12 hours or more; and
 - (II) who provides a service not principally characterized as dating or socializing; or
 - (D) a person who provides services such as singing telegrams, birthday greetings, or similar activities:
 - (I) characterized by an appearance in a public place;
 - (II) contracted for by a party other than the person for whom the service is being performed; and
 - (III) of a duration not to exceed one hour.
- (d) "Escort service" means any person who furnishes or arranges for an escort to accompany another individual for compensation.
- (e) "Nude or partially denuded individual" means an individual with any of the following less than completely and opaquely covered:
 - (i) genitals;
 - (ii) the pubic region; or
 - (iii) a female breast below a point immediately above the top of the areola.
- (f)
 - (i) "Sexually oriented business" means a business at which any nude or partially denuded individual, regardless of whether the nude or partially denuded individual is an employee of the sexually oriented business or an independent contractor, performs any service for compensation.
 - (ii) "Sexually oriented business" includes:
 - (A) an escort service; or
 - (B) an adult service.
- (2) A person employed in a sexually oriented business may not work in a municipality:
 - (a) if the municipality requires that a person employed in a sexually oriented business be licensed individually; and
 - (b) if the person is not licensed by the municipality.
- (3) A business entity that conducts a sexually oriented business may not conduct business in a municipality:
 - (a) if the municipality requires that a sexually oriented business be licensed; and
 - (b) if the business entity is not licensed by the municipality.

Enacted by Chapter 398, 2010 General Session

10-8-41.6 Regulation of retail tobacco specialty business.

- (1) As used in this section:
 - (a) "Community location" means:
 - (i) a public or private kindergarten, elementary, middle, junior high, or high school;
 - (ii) a licensed child-care facility or preschool;
 - (iii) a trade or technical school;
 - (iv) a church;

- (v) a public library;
- (vi) a public playground;
- (vii) a public park;
- (viii) a youth center or other space used primarily for youth oriented activities;
- (ix) a public recreational facility; or
- (x) a public arcade.
- (b) "Retail tobacco specialty business" means a commercial establishment in which:
 - (i) the sale of tobacco products accounts for more than 35% of the total annual gross receipts for the establishment;
 - (ii) food and beverage products, excluding gasoline sales, is less than 45% of the total annual gross receipts for the establishment; and
 - (iii) the establishment is not licensed as a pharmacy under Title 58, Chapter 17b, Pharmacy Practice Act.
- (c) "Tobacco product" means:
 - (i) any cigar, cigarette, or electronic cigarette as defined in Section 76-10-101;
 - (ii) a tobacco product as defined in Section 59-14-102, including:
 - (A) chewing tobacco; or
 - (B) any substitute for a tobacco product, including flavoring or additives to tobacco; and
 - (iii) tobacco paraphernalia as defined in Section 76-10-104.1.
- (2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state, and through delegation, to other governmental entities.
- (3)
 - (a) Except as provided in Subsection (7), and beginning July 1, 2012, a municipality shall require an entity to be licensed as a retail tobacco specialty business to conduct business as a retail tobacco specialty business in a municipality.
 - (b) A municipality may issue a retail tobacco specialty business license to an entity if the entity complies with the provisions of Subsection (5).
- (4) Except as provided in Subsection (7), and beginning July 1, 2012, a business entity that conducts a retail tobacco specialty business in a municipality shall be licensed by the municipality as a retail tobacco specialty business.
- (5)
 - (a) A municipality may not issue a license to a retail tobacco specialty business if it is located within:
 - (i) 1,000 feet of a community location;
 - (ii) 600 feet of another retail tobacco specialty business; or
 - (iii) 600 feet from property used or zoned for:
 - (A) agriculture use; or
 - (B) residential use.
 - (b) For purposes of Subsection (5)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of the community location, or agricultural or residential use, without regard to intervening structures or zoning districts.
- (6)
 - (a) Nothing in this section:
 - (i) requires a municipality to issue a business license to a retail tobacco specialty business; or
 - (ii) prohibits a municipality from adopting more restrictive requirements on a tobacco specialty business than provided for in this section.
 - (b) A municipality may revoke a business license issued under this section:

- (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
 - (ii) if a licensee violates the regulations restricting the sale and distribution of cigarettes and smokeless tobacco to protect children and adolescents issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or
 - (iii) under other provisions of state law or local ordinance.
- (7)
- (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has a business license and is operating lawfully in a municipality on or before May 8, 2012, is exempt from Subsections (4) and (5).
 - (b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:
 - (i) the business license is renewed continuously without relapse or permanent revocation;
 - (ii) the retail tobacco specialty business is not closed for business or otherwise suspends the sale of tobacco products for more than 60 consecutive days;
 - (iii) the retail tobacco specialty business does not substantially change the business premises or its business operation; and
 - (iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including zoning ordinances, building codes, and the business license issued prior to May 8, 2012.

Enacted by Chapter 154, 2012 General Session

10-8-42 Intoxicating liquors -- Prohibitions on manufacture, sale, possession, etc.

They may prohibit, except as provided by law, any person from knowingly having in his possession any intoxicating liquor, and the manufacture, sale, keeping or storing for sale, offering or exposing for sale, importing, carrying, transporting, advertising, distributing, giving away, exchanging, dispensing or serving of intoxicating liquors.

No Change Since 1953

10-8-43 Establishment and regulation of markets -- Sale of meats, poultry, etc.

They may establish markets and market houses, and provide for the regulation and use thereof, and provide for the place and the manner of sale of meats, poultry, fish, butter, cheese, lard, vegetables and all other provisions, and regulate the selling of the same.

No Change Since 1953

10-8-44 Food stuffs -- Regulation and inspection.

They may provide for and regulate the inspection of meats, fruit, poultry, fish, butter, cheese, lard, vegetables, flour, meal and all other provisions, and provide for the inspection, measurement or graduation of any merchandise, manufacture or commodity, and appoint the necessary officers therefor.

No Change Since 1953

10-8-44.5 Prohibition against regulation of nutritional information dissemination.

- (1) A municipality may not regulate the dissemination of nutritional information or the content required to be placed on a menu, menu board, or food tag by a restaurant, eating establishment, or other food facility.
- (2) An ordinance or regulation that violates Subsection (1) is void.

Enacted by Chapter 236, 2009 General Session

10-8-44.6 Regulation of drive-through facilities.

- (1) As used in this section:
 - (a) "Business" means a private enterprise carried on for the purpose of gain or economic profit.
 - (b)
 - (i) "Business lobby" means a public area, including a lobby, dining area, or other area accessible to the public where business is conducted within a place of business.
 - (ii) "Business lobby" does not include the area of a business where drive-through service is conducted.
 - (c) "Land use application" means the same as that term is defined in Section 10-9a-103.
 - (d) "Motorcycle" means a motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.
 - (e)
 - (i) "Motor vehicle" means a self-propelled vehicle, including a motorcycle, intended primarily for use and operation on the highways.
 - (ii) "Motor vehicle" does not include an off-highway vehicle.
 - (f) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, or all-terrain type II vehicle.
- (2) A municipality may not withhold a business license, deny a land use application, or otherwise require a business that has a drive-through service as a component of its business operations to:
 - (a) allow a person other than a person in a motorized vehicle to use the drive-through service; or
 - (b) offer designated hours of the day that a customer is accommodated and business is conducted in the business lobby that are the same as or exceed the hours of the day that a customer is accommodated and business is conducted in the drive-through service.

Enacted by Chapter 146, 2015 General Session

10-8-45 Weights and measures -- Inspection and sealing.

They may provide for the inspection, sealing and use of proper weights, measures, computing scales, and all weighing and measuring devices indicating the numerical value as well as weight or quantity.

No Change Since 1953

10-8-46 Plumbing -- Regulation of construction and repair -- Board of examiners.

They may regulate the construction, repair and use of vaults, cisterns, areas, hydrants, pumps, sewers, gutters and plumbing, and provide for a board of examiners to examine into the fitness and qualifications of persons following the plumbing trade, and may prescribe what qualifications are necessary for persons following said trade.

No Change Since 1953

10-8-47 Intoxication -- Fights -- Disorderly conduct -- Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics, or tobacco to minors -- Possession of controlled substances -- Treatment of alcoholics and narcotics or drug addicts.

A municipal legislative body may prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights, bullfights, and all disorderly conduct and provide against and punish the offenses of assault and battery and petit larceny; the municipal legislative body may restrain riots, routs, noises, disturbances or disorderly assemblies in any street, house or place in the city; the municipal legislative body may regulate and prevent the discharge of firearms, rockets, powder, fireworks or any other dangerous or combustible material; the municipal legislative body may provide against and prevent the offense of obtaining money or property under false pretenses and the offense of embezzling money or property in all cases where the money or property embezzled or obtained under false pretenses does not exceed in value the sum of \$500 and may prohibit the sale, giving away, or furnishing of narcotics, alcoholic beverages to a person younger than 21 years of age, or tobacco to any person younger than 19 years of age; cities may, by ordinance, prohibit the possession of controlled substances as defined in the Utah Controlled Substances Act or any other endangering or impairing substance, provided the conduct is not a class A misdemeanor or felony, and provide for treatment of alcoholics, narcotic addicts and other persons who are addicted to the use of drugs or intoxicants such that a person substantially lacks the capacity to control the person's use of the drugs or intoxicants, and judicial supervision may be imposed as a means of effecting their rehabilitation.

Amended by Chapter 140, 2012 General Session

10-8-47.5 Knives regulated by state.

- (1) As used in this section, "knife" means a cutting instrument that includes a sharpened or pointed blade.
- (2) The authority to regulate a knife is reserved to the state except where the Legislature specifically delegates responsibility to a municipality.
- (3)
 - (a) Unless specifically authorized by the Legislature or, subject to Subsection (3)(b), a municipal ordinance with a criminal penalty, a municipality may not enact or enforce an ordinance or a regulation pertaining to a knife.
 - (b) A municipality may not enact an ordinance with a criminal penalty pertaining to a knife that is:
 - (i) more restrictive than a state criminal penalty pertaining to a knife; or
 - (ii) has a greater criminal penalty than a state penalty pertaining to a knife.

Enacted by Chapter 272, 2011 General Session

10-8-49 Vagrants -- Arrest -- Fine -- Putting to work -- Municipal lodging.

They may arrest and fine or set to work on the streets or elsewhere all vagrants, mendicants and persons found in the city without visible means of support or some legitimate business, and may establish and maintain municipal lodging and eating houses.

No Change Since 1953

10-8-50 Disturbing the peace -- Public intoxication -- Fighting -- Obscene language -- Disorderly conduct -- Lewd behavior -- Interference with officers -- Trespass.

- (1) Boards of commissioners and city councils of cities may provide for the punishment of any person or persons for:
- (a) disturbing the peace or good order of the city;
 - (b) disturbing the peace of any person or persons;
 - (c) disturbing any lawful assembly;
 - (d) public intoxication;
 - (e) challenging, encouraging, or engaging in fighting;
 - (f) using obscene or profane language in a place or under circumstances which could cause a breach of the peace or good order of the city;
 - (g) engaging in indecent or disorderly conduct;
 - (h) engaging in lewd or lascivious behavior or conduct in the city; and
 - (i) interfering with any city officer in the discharge of his duty.
- (2) Boards of commissioners and city councils of cities may provide for the punishment of trespass and such other petty offenses as the board of commissioners or city council may consider proper.
- (3)
- (a) A woman's breast feeding, including breast feeding in any location where she otherwise may rightfully be, does not under any circumstance constitute a lewd or indecent act, irrespective of whether or not the breast is covered during or incidental to feeding.
 - (b) Boards of commissioners and city councils of cities may not prohibit a woman's breast feeding in any location where she otherwise may rightfully be, irrespective of whether the breast is uncovered during or incidental to the breast feeding.

Amended by Chapter 131, 1995 General Session

10-8-51 Beggars, prostitutes, swindlers -- Punishment.

They may provide for the punishment of tramps, street beggars, prostitutes, habitual disturbers of the peace, pickpockets, gamblers and thieves, or persons who practice any game, trick or device with intent to swindle.

No Change Since 1953

10-8-52 Buildings -- Fire limits -- Removal and destruction of buildings violating ordinance.

They may define fire limits and prescribe limits within which no building shall be constructed except of brick, stone or other incombustible material, without permission, and may cause the destruction or removal of any building constructed or repaired in violation of any ordinance, and cause all buildings and enclosures which may be in a dangerous state to be put in a safe condition or removed.

No Change Since 1953

10-8-53 Fire escapes -- Construction -- Building exits -- Fire extinguishers.

They may prescribe the manner of constructing stone, brick and other buildings, and the construction and maintenance of fire escapes; may cause all buildings used for public purposes to be provided with sufficient and ample means of exit and entrance, and to be supplied with necessary and appropriate appliances for the extinguishment of fire; may prevent the overcrowding

thereof, and regulate the placing and use of seats, scenery, curtains, blinds, screens, or other appliances therein.

No Change Since 1953

10-8-53.5 Regulation of carbon monoxide detectors -- Enforcement against occupant only.

- (1) Subject to Subsection (2), a municipality may not enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling.
- (2) Subsection (1) may not be construed to affect:
 - (a) a building permit applicant's obligation to comply with a building code that requires the installation of a carbon monoxide detector as part of new construction; or
 - (b) a municipality's ability to require a building permit applicant to comply with a building code that requires the installation of a carbon monoxide detector as part of new construction.

Enacted by Chapter 304, 2009 General Session

10-8-54 Regulation of construction and condition of chimneys and heating equipment -- Disposal of ashes.

They may prevent the dangerous construction and condition of chimneys, fireplaces, stoves, stovepipes, heaters, ovens, furnaces, boilers, and apparatus used in and about buildings and manufactories, and cause the same to be removed or placed in a safe condition; and may regulate and prevent the carrying on of manufacturing likely to cause fires, and may prevent the deposit of ashes in unsafe places.

No Change Since 1953

10-8-55 Fire departments -- Fire-fighting equipment -- Rules and regulations.

They may, except as otherwise provided by law, provide for the organization and support of a fire department, procure fire engines, hooks, ladders, buckets, hose and other apparatus, organize fire engine and hook and ladder companies, prescribe duties, rules and regulations for the government thereof, with such penalty as they may deem proper, and make all necessary appropriations therefor.

Amended by Chapter 19, 1957 General Session

10-8-55.5 Prohibition of flat response fee.

- (1) A municipality, or a person who contracts with a municipality to provide emergency services:
 - (a) may not impose a flat fee, or collect a flat fee, from an individual involved in a traffic incident; and
 - (b) may only charge the individual for the actual cost of services provided in responding to the traffic incident, limited to:
 - (i) medical costs for:
 - (A) transporting an individual from the scene of a traffic accident; or
 - (B) treatment of a person injured in a traffic accident;
 - (ii) repair to damaged public property, if the individual is legally liable for the damage;
 - (iii) the cost of materials used in cleaning up the traffic accident, if the individual is legally liable for the traffic accident; and

- (iv) towing costs.
- (2) If a municipality, or a person who contracts with a municipality to provide emergency services, imposes a charge on more than one individual for the actual cost of responding to a traffic incident, the municipality or person contracting with the municipality shall apportion the charges so that it does not receive more for responding to the traffic incident than the actual response cost.

Enacted by Chapter 230, 2011 General Session

10-8-56 Storage of combustibles and explosives -- Use of lights -- Bonfires.

They may regulate or prevent the storage of gunpowder, tar, pitch, resin, coal, oil, gas, gasoline, benzene, turpentine, nitroglycerine, petroleum or any of the products thereof, and other combustible or explosive substances or materials, and the use of lights in stables, shops and other places, and the building of bonfires.

No Change Since 1953

10-8-57 Inspection of boilers -- Licensing of stationary engineers.

They may provide for the inspection and may regulate the use of steam boilers, provide for the examination, regulation and licensing of stationary engineers and others having charge or control of stationary engines, motors, boilers or steam or power generating apparatus, or elevators, within the corporate limits of the city.

No Change Since 1953

10-8-58 Jails and workhouses -- Establishment and maintenance.

The governing body of a city or town may:

- (1) establish, erect, and maintain city jails, houses of correction, and workhouses for the temporary confinement, not to exceed 72 hours, of persons convicted of violating any city ordinances;
- (2) make rules for the government of them;
- (3) appoint necessary jailers and keepers; and
- (4) use the county correctional facilities, including the county jail, for the confinement or punishment of offenders on the following conditions:
 - (a) a city or town may use the county correctional facilities without payment of compensation or reimbursement for incarceration costs or costs associated with booking of offenders in county correctional facilities;
 - (b) subject to any conditions that are imposed by law; and
 - (c) with the consent of the county legislative body which may include, without limitation, the allocation or rationing of correctional facility capacity and prohibition of booking for classes of offenses or offenders. These limitations shall be applied equally to all entities using the county correctional facilities.
- (5) If consent is given for the use of the county correctional facilities, the sheriff, at the sheriff's discretion, may assign offenders to county correctional facilities or programs or transfer offenders between facilities or programs.
- (6) Nothing contained in this section shall:
 - (a) preclude cities, towns, and counties from executing written agreements containing terms or conditions for the use of the county jail; or
 - (b) invalidate any agreements entered into prior to July 1, 2004.

Amended by Chapter 353, 2007 General Session

10-8-58.5 Contracting for management, maintenance, operation, or construction of jails.

- (1)
- (a) The governing body of a city or town may contract with private contractors for management, maintenance, operation, and construction of city jails.
 - (b) The governing body may include a provision in the contract that requires that any jail facility meet any federal, state, or local standards for the construction of jails.
- (2) If the governing body contracts only for the management, maintenance, or operation of a jail, the governing body shall include provisions in the contract that:
- (a) require the private contractor to post a performance bond in the amount set by the governing body;
 - (b) establish training standards that shall be met by jail personnel;
 - (c) require the private contractor to provide and fund training for jail personnel so that the personnel meet the standards established in the contract and any other federal, state, or local standards for the operation of jails and the treatment of jail prisoners;
 - (d) require the private contractor to indemnify the city or town for errors, omissions, defalcations, and other activities committed by the private contractor that result in liability to the city or town;
 - (e) require the private contractor to show evidence of liability insurance protecting the city or town and its officers, employees, and agents from liability arising from the construction, operation, or maintenance of the jail, in an amount not less than those specified in Title 63G, Chapter 7, Governmental Immunity Act of Utah;
 - (f) require the private contractor to:
 - (i) receive all prisoners committed to the jail by competent authority; and
 - (ii) provide them with necessary food, clothing, and bedding in the manner prescribed by the governing body; and
 - (g) prohibit the use of inmates by the private contractor for private business purposes of any kind.
- (3) A contractual provision requiring the private contractor to maintain liability insurance in an amount not less than the liability limits established by Title 63G, Chapter 7, Governmental Immunity Act of Utah, may not be construed as waiving the limitation on damages recoverable from a governmental entity or its employees established by that chapter.

Amended by Chapter 378, 2010 General Session

10-8-59 Cruelty to animals.

They may prohibit cruelty to animals.

No Change Since 1953

10-8-60 Nuisances.

They may declare what shall be a nuisance, and abate the same, and impose fines upon persons who may create, continue or suffer nuisances to exist.

No Change Since 1953

10-8-62 Cemeteries -- Purchase and operation.

The city legislative body may:

- (1) purchase, hold, and pay for lands within or without the corporate limits for the burial of the dead, and all necessary grounds for hospitals;
- (2) have and exercise police jurisdiction over those lands, and over any cemetery used by the inhabitants of the city;
- (3) survey, plat, map, fence, ornament, and otherwise improve, manage, and operate public burial and cemetery grounds;
- (4) convey cemetery lots owned by the city, and pass ordinances for the protection and governing of these grounds consistent with Title 8, Chapter 5, Rights and Title to Cemetery Lots;
- (5) contract for the care and improvement of cemeteries and cemetery lots, and for any compensation for the care and improvement;
- (6) receive deposits for the care of lots and invest the deposits by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and
- (7) pay the cost of the care from any proceeds from the investment.

Amended by Chapter 189, 2014 General Session

10-8-63 Burial of dead -- Vital statistics.

They may regulate the burial of the dead, consistent with Title 8, Chapter 5, Rights and Title to Cemetery Lots, the registration of births and deaths, direct the returning and keeping of bills of mortality, and impose penalties on physicians, sextons, and others for any default therein.

Amended by Chapter 189, 2014 General Session

10-8-65 Regulation of dogs -- Service animals permitted.

- (1) Subject to Section 18-2-101, a municipality may:
 - (a) license, tax, regulate, or prohibit the keeping of dogs; and
 - (b) authorize the destruction, sale, or other disposal of a dog if the dog is at large contrary to ordinance.
- (2)
 - (a) As used in this Subsection (2):
 - (i) "Retired service animal" means a dog that:
 - (A) at one time was a service animal for the current owner; and
 - (B) no longer provides service animal services for the owner because of the dog's age or other factors limiting the dog's service capability.
 - (ii) "Service animal" means a police service canine, as defined in Section 53-16-102.
 - (b) If a municipality adopts a limit as to the number of dogs a person may keep, the municipality shall allow a person to keep a service animal, a retired service animal, or both in addition to that limit.

Amended by Chapter 28, 2014 General Session

Amended by Chapter 424, 2014 General Session

10-8-66 Offensive businesses -- Regulation of management and construction.

They may direct the location and regulate the management and construction of packing houses, dairies, tanneries, canneries, renderies, bone factories, slaughterhouses, butcher shops, soap factories, foundries, breweries, distilleries, livery stables and blacksmith shops in and within one mile of the limits of the corporation.

No Change Since 1953

10-8-67 Pigsties, privies, other offensive establishments -- Prohibiting establishment.

They may prohibit any offensive, unwholesome business or establishment in and within one mile of the limits of the corporation, compel the owner of any pigsty, privy, barn, corral, sewer or other unwholesome or nauseous house or place to cleanse, abate or remove the same, and may regulate the location thereof.

No Change Since 1953

10-8-68 Census.

They may provide for the taking of censuses, but no census shall be taken oftener than once in five years, except as otherwise provided by law.

No Change Since 1953

10-8-69 Conduct that interferes with or impedes traffic.

- (1) Except as provided in Subsection (2), the governing body of a city or town may prohibit or regulate conduct on a highway or sidewalk if the conduct interferes with or impedes traffic, including:
 - (a) rolling a hoop;
 - (b) playing ball;
 - (c) flying a kite;
 - (d) riding a bicycle or tricycle; or
 - (e) any other conduct or activity that interferes with traffic.
- (2) A governing body of a city or town may not prohibit or regulate conduct under Subsection (1) if the prohibition or regulation is inconsistent with or conflicts with any provision in Title 41, Chapter 6a, Traffic Code.

Amended by Chapter 360, 2013 General Session

10-8-70 Lumberyards and combustible materials.

They may regulate or prohibit the keeping of any lumberyard, and the placing or piling or selling of any lumber, timber, wood or other combustible material within the fire limits of the city.

No Change Since 1953

10-8-71 Waterworks -- Police and fire signals -- Retainage.

- (1) They may purchase, construct, lease, rent, manage and maintain any system or part of any system of waterworks, hydrants and supplies of water, telegraphic or other police or fire signals, and pass all ordinances, penal or otherwise, that shall be necessary for the full protection, maintenance, management and control of the property so leased, purchased or constructed.
- (2) If any payment on a contract with a private person, firm, or corporation to construct all or part of any waterworks system is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

Amended by Chapter 365, 1999 General Session

10-8-72 Libraries and reading rooms -- Establishment and maintenance.

They may establish, maintain and regulate free public libraries and reading rooms, as provided by law, and may perpetuate such free libraries and reading rooms as may have been heretofore established in the city.

No Change Since 1953

10-8-73 Processions and demonstrations.

They may regulate or prohibit all public demonstrations and processions which interfere with public traffic or tend to cause disorder.

No Change Since 1953

10-8-74 Burial of indigents.

They may provide for the burial of the indigent dead and pay the expenses thereof.

No Change Since 1953

10-8-75 Destitute children.

They may authorize the taking, and provide for the safekeeping and education for such periods of time as may be expedient, for all children who are destitute of proper parental care.

No Change Since 1953

10-8-76 Noise abatement -- Street performances.

They may prevent the ringing of bells, blowing of horns and bugles, crying of goods by auctioneers and others, and the making of other noises, for the purpose of business, amusement or otherwise, and prevent all performances and devices tending to the collection of persons on the streets or sidewalks of the city.

No Change Since 1953

10-8-77 Untied animals in streets.

They may compel persons to fasten animals attached to vehicles standing or remaining in the street.

No Change Since 1953

10-8-78 Official bonds and reports.

They may require all municipal officers and agents, elected or appointed, to give bond and security for the faithful performance of their duties, and require from every officer of the city at any time a report in detail of all transactions in his office or any matters connected therewith.

No Change Since 1953

10-8-79 Creating offices -- Filling vacancies.

They may create any office they may deem necessary for the good government of the city, and provide for filling vacancies in elective and appointive offices, and prescribe the powers, duties and compensation of all officers of the city, except as otherwise provided by law.

No Change Since 1953

10-8-81 Social clubs and athletic associations.

They may regulate all social clubs, recreational associations, athletic associations and kindred associations, whether incorporated or not, which maintain club rooms or regular meeting rooms within the corporate limits of the city.

No Change Since 1953

10-8-82 Railroads -- Removal of unused tracks.

They may require the tracks of any railroad or street railway company to be taken up and removed which shall have been laid upon the streets or highways of the city, and which remain in the streets or highways contrary to the terms of the franchise of the company, or which are declared by the governing body a nuisance, or which such company has failed to operate for a period of nine months prior to the time when such nuisance shall be declared, and shall have the power to declare any of the acts specified in this section a nuisance.

No Change Since 1953

10-8-83 Railroad gates -- Kind and quality -- Installation.

They may require any railroad or street railway company to place gates at any place along its tracks, and may designate the places where such gates shall be placed, and the nature, kind and quality of such gates.

No Change Since 1953

10-8-84 Ordinances, rules, and regulations -- Passage -- Penalties.

- (1) The municipal legislative body may pass all ordinances and rules, and make all regulations, not repugnant to law, necessary for carrying into effect or discharging all powers and duties conferred by this chapter, and as are necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of the city and its inhabitants, and for the protection of property in the city.
- (2) The municipal legislative body may enforce obedience to the ordinances with fines or penalties in accordance with Section 10-3-703.

Amended by Chapter 323, 2000 General Session

10-8-84.5 Limitations on employee benefits imposed by a municipality.

- (1) For the purpose of this section:
 - (a) "Accident and health insurance" is as defined in Section 31A-1-301.
 - (b) "Employee" means an individual employed by an employer.
 - (c) "Employee benefit" means one or more benefits or services provided to:
 - (i) an employee; or

- (ii) a dependent of an employee.
- (d) "Private employer" means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.
- (e) "Insurance" is as defined in Section 31A-1-301.
- (f) "Life insurance" is as defined in Section 31A-1-301.
- (2) A municipality may not enact or enforce an ordinance that establishes, mandates, or requires a private employer to establish or offer an employee benefit, including:
 - (a) accident and health insurance;
 - (b) life insurance;
 - (c) sick leave; or
 - (d) family medical leave.
- (3) Nothing in this section prohibits a municipality from considering an employee benefit described in Subsection (2) among other criteria when issuing a request for proposals.

Enacted by Chapter 87, 2012 General Session

10-8-85 Prison labor and fines.

They may provide by ordinance that any person committed to the county or municipal jail or other place of incarceration as a punishment or in default of the payment of a fine, or fine and costs, shall be required to work for the city at such labor as his strength will permit not exceeding eight hours in each working day; and that a judgment that the defendant pay a fine or a fine and costs may also direct that he be imprisoned until the amount thereof is satisfied, specifying the extent of imprisonment which cannot exceed one day for each \$2 of such amount.

No Change Since 1953

10-8-85.5 "Rental dwelling" defined -- Municipality may require a business license or a regulatory business license and inspections -- Exception.

- (1) As used in this section, "rental dwelling" means a building or portion of a building that is:
 - (a) used or designated for use as a residence by one or more persons; and
 - (b)
 - (i) available to be rented, loaned, leased, or hired out for a period of one month or longer; or
 - (ii) arranged, designed, or built to be rented, loaned, leased, or hired out for a period of one month or longer.
- (2)
 - (a) The legislative body of a municipality may by ordinance require the owner of a rental dwelling located within the municipality:
 - (i) to obtain a business license pursuant to Section 10-1-203; or
 - (ii)
 - (A) to obtain a regulatory business license to operate and maintain the rental dwelling in accordance with Section 10-1-203.5; and
 - (B) to allow inspections of the rental dwelling as a condition of obtaining a regulatory business license.
 - (b) A municipality may not require an owner of multiple rental dwellings or multiple buildings containing rental dwellings to obtain more than one regulatory business license for the operation and maintenance of those rental dwellings.
 - (c) A municipality may not charge a fee for the inspection of a rental dwelling.

- (d) If a municipality's inspection of a rental dwelling, allowed under Subsection (2)(a)(ii)(B), approves the rental dwelling for purposes of a regulatory business license, a municipality may not inspect that rental dwelling except as provided for in Section 10-1-203.5.
- (3) A municipality may not:
 - (a) interfere with the ability of an owner of a rental dwelling to contract with a tenant concerning the payment of the cost of a utility or municipal service provided to the rental dwelling; or
 - (b) except as required under the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act, for a structural change to the rental dwelling, or as required in an ordinance adopted before January 1, 2008, require the owner of a rental dwelling to retrofit the rental dwelling with or install in the rental dwelling a safety feature that was not required when the rental dwelling was constructed.
- (4) Nothing in this section shall be construed to affect the rights and duties established under Title 57, Chapter 22, Utah Fit Premises Act, or to restrict a municipality's ability to enforce its generally applicable health ordinances or building code, a local health department's authority under Title 26A, Chapter 1, Local Health Departments, or the Utah Department of Health's authority under Title 26, Utah Health Code.

Amended by Chapter 289, 2012 General Session

10-8-85.6 Definitions -- Electronic payments -- Fee.

- (1) As used in this section:
 - (a) "Electronic payment" means the payment of money to a municipality by electronic means, including by means of a credit card, charge card, debit card, prepaid or stored value card or similar device, or automatic clearinghouse transaction.
 - (b) "Electronic payment fee" means an amount of money to defray the discount fee, processing fee, or other fee charged by a credit card company or processing agent to process an electronic payment.
 - (c) "Processing agent" means a bank, transaction clearinghouse, or other third party that charges a fee to process an electronic payment.
- (2) A municipality may accept an electronic payment for the payment of funds which the municipality could have received through another payment method.
- (3) A municipality that accepts an electronic payment may charge an electronic payment fee.

Enacted by Chapter 29, 2005 General Session

10-8-85.7 Implements of husbandry tracking debris onto municipal roads.

A municipality may not prohibit or punish the tracking of dirt, mud, or other debris onto a municipal road resulting from the operation of an implement of husbandry if the operation of the implement of husbandry is consistent with accepted agricultural practices.

Enacted by Chapter 214, 2006 General Session

10-8-85.8 Indemnification of farmers markets.

A municipality may:

- (1) operate a farmers market, as defined in Section 4-5-2, on municipality-owned property in order to promote economic development;
- (2) indemnify a food producer participating in the farmers market; and
- (3) define the scope of the indemnification in an agreement with the food producer.

Enacted by Chapter 146, 2007 General Session

10-8-85.9 Preservation of historical areas and sites.

A municipality may:

- (1) expend public funds to preserve, protect, or enhance an historical area or site;
- (2) acquire an historical area or site by direct purchase, contract, lease, trade, or gift;
- (3) obtain an easement or right-of-way across public or private property to ensure access or proper development of an historical area or site;
- (4) protect an historical area or site;
- (5) ensure proper development and utilization of land or an area adjacent to an historical area or site; and
- (6) enter into an agreement with a private individual for the right to purchase an historical area or site if and when the private individual elects to sell or dispose of the owner's property.

Enacted by Chapter 360, 2008 General Session

Part 2
Public Transportation

10-8-86 Organization, operation, maintenance, and funding of system for public transit authorized.

- (1) The governing body of any municipality may adopt a resolution allowing the municipality to organize, operate, and maintain a system for public transit within the municipality and to impose a sales and a use tax to fund the system for public transit as provided in Section 59-12-2213.
- (2) The authority granted municipalities by this section to organize, operate, and maintain a system for public transit is inapplicable to a municipality located in or within five highway or roadway miles of the boundary of an existing transit district, unless the existing transit district consents to the organization and operation of the system for public transit by the municipality.

Amended by Chapter 263, 2010 General Session

Part 3
Change of Grade of Streets

10-8-89 Damage to abutting property -- Liability of city.

Whenever by the grading of any street, alley or other public ground in a city, pursuant to the action of the city authorities in changing the established grade of such street, alley or public ground, after valuable improvements have been made upon real property abutting thereon such real property is injured or diminished in value, the owner of such real property or improvements may recover from such city the amount of such damages or diminution in value in a civil action brought for that purpose.

No Change Since 1953

Part 4

Hospitals in Cities of Third Class and Towns

10-8-90 Ownership and operation of hospitals.

Each city of the third, fourth, or fifth class and each town of the state is authorized to construct, own, and operate hospitals and to join with other cities, towns, and counties in the construction, ownership, and operation of hospitals.

Amended by Chapter 292, 2003 General Session

10-8-91 Levy of tax by cities of the third, fourth, and fifth class and towns.

A city of the third, fourth, or fifth class or a town may levy a tax not exceeding .001 per dollar of taxable value of taxable property for the purposes stated in Section 10-8-90.

Amended by Chapter 292, 2003 General Session

10-8-92 Joint board -- Membership -- Powers.

When two or more political subdivisions of the state of Utah join together under this act for the purposes set forth herein, there shall be set up by the political subdivisions so joining, a joint board whose membership shall have equal representation from each of the political subdivisions joining, and which said board shall be empowered with the administration, operation, construction and maintenance of said joint hospital.

No Change Since 1953

10-8-93 Control of funds and disbursements -- Auditing of accounts by county auditor -- Transfer of county tax funds to board to cover deficiencies.

The joint board created pursuant to this act shall have the custody and control of all funds collected in the joint operation of such hospital and the disbursement thereof; provided that the county auditor of any county participating under the provisions of this act shall audit the accounts of said board quarterly or at more frequent intervals, if public interest, in the judgment of such auditor requires a more frequent audit. The county executive of any county participating in the operation and maintenance of hospitals pursuant to this act may pay over to the joint board of such hospitals any funds yielded by a levy made pursuant to Section 17-53-221 that may be required to cover any deficiencies incurred in the operation and maintenance of such hospital.

Amended by Chapter 133, 2000 General Session

10-8-94 Towns with same authority as cities.

Towns have the same powers and authority granted to cities under this chapter, in addition to other powers conferred by law, but subject to the following:

- (1) The town council may enact ordinances providing for the public safety, health, morals, and welfare of the town which are not prohibited, preempted by, or inconsistent with, the policy of state or federal law or the constitution of Utah or the United States, or attempt to regulate an area which by the nature of the subject requires uniform state regulation.
- (2) The town council:

- (a) may lay out, construct, open, and keep in repair canals, water ditches, or water pipes to conduct water for artificial light and power purposes, and construct, own, and operate artificial light and power plants;
- (b) may construct, own, and operate water pipes for irrigation, domestic, or other use for the inhabitants of the town; and
- (c) may annually assess and collect a special tax of not to exceed .0008 per dollar of taxable value of taxable property in the town for those purposes.

Amended by Chapter 3, 1988 General Session

Chapter 9a Municipal Land Use, Development, and Management Act

Part 1 General Provisions

10-9a-101 Title.

This chapter is known as the "Municipal Land Use, Development, and Management Act."

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-102 Purposes -- General land use authority.

- (1) The purposes of this chapter are to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values.
- (2) To accomplish the purposes of this chapter, municipalities may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the municipality, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, fundamental fairness in land use regulation, considerations of surrounding land uses and the balance of the foregoing purposes with a landowner's private property interests, height and location of vegetation, trees, and landscaping, unless expressly prohibited by law.

Amended by Chapter 363, 2007 General Session

10-9a-103 Definitions.

As used in this chapter:

- (1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:
 - (a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
 - (b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or
 - (c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.
- (2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.
- (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.
- (4)
 - (a) "Charter school" means:
 - (i) an operating charter school;
 - (ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or
 - (iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.
 - (b) "Charter school" does not include a therapeutic school.
- (5) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.
- (6) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:
 - (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
 - (b) Utah Constitution Article I, Section 22.
- (7) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.
- (8) "Development activity" means:
 - (a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;
 - (b) any change in use of a building or structure that creates additional demand and need for public facilities; or
 - (c) any change in the use of land that creates additional demand and need for public facilities.
- (9)
 - (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.
 - (b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.
- (10) "Educational facility":
 - (a) means:

- (i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;
 - (ii) a structure or facility:
 - (A) located on the same property as a building described in Subsection (10)(a)(i); and
 - (B) used in support of the use of that building; and
 - (iii) a building to provide office and related space to a school district's administrative personnel; and
- (b) does not include:
 - (i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
 - (A) not located on the same property as a building described in Subsection (10)(a)(i); and
 - (B) used in support of the purposes of a building described in Subsection (10)(a)(i); or
 - (ii) a therapeutic school.
- (11) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.
- (12) "Flood plain" means land that:
 - (a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or
 - (b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.
- (13) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.
- (14) "Geologic hazard" means:
 - (a) a surface fault rupture;
 - (b) shallow groundwater;
 - (c) liquefaction;
 - (d) a landslide;
 - (e) a debris flow;
 - (f) unstable soil;
 - (g) a rock fall; or
 - (h) any other geologic condition that presents a risk:
 - (i) to life;
 - (ii) of substantial loss of real property; or
 - (iii) of substantial damage to real property.
- (15) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.
- (16) "Identical plans" means building plans submitted to a municipality that:
 - (a) are clearly marked as "identical plans";
 - (b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and
 - (c) describe a building that:
 - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

- (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
 - (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and
 - (iv) does not require any additional engineering or analysis.
- (17) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.
- (18) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:
 - (a) recording a subdivision plat; or
 - (b) development of a commercial, industrial, mixed use, or multifamily project.
- (19) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:
 - (a) complies with the municipality's written standards for design, materials, and workmanship; and
 - (b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.
- (20) "Improvement warranty period" means a period:
 - (a) no later than one year after a municipality's acceptance of required landscaping; or
 - (b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:
 - (i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and
 - (ii) has substantial evidence, on record:
 - (A) of prior poor performance by the applicant; or
 - (B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.
- (21) "Infrastructure improvement" means permanent infrastructure that an applicant must install:
 - (a) pursuant to published installation and inspection specifications for public improvements; and
 - (b) as a condition of:
 - (i) recording a subdivision plat; or
 - (ii) development of a commercial, industrial, mixed use, condominium, or multifamily project.
- (22) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:
 - (a) runs with the land; and
 - (b)
 - (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
 - (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.
- (23) "Land use application" means an application required by a municipality's land use ordinance.
- (24) "Land use authority" means:
 - (a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or
 - (b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.
- (25) "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan.

- (26) "Land use permit" means a permit issued by a land use authority.
- (27) "Legislative body" means the municipal council.
- (28) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.
- (29) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.
- (30) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.
- (31) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:
 - (a) verifying that building plans are identical plans; and
 - (b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.
- (32) "Noncomplying structure" means a structure that:
 - (a) legally existed before its current land use designation; and
 - (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.
- (33) "Nonconforming use" means a use of land that:
 - (a) legally existed before its current land use designation;
 - (b) has been maintained continuously since the time the land use ordinance governing the land changed; and
 - (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.
- (34) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:
 - (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
 - (b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and
 - (c) has been adopted as an element of the municipality's general plan.
- (35) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:
 - (a) no additional parcel is created; and
 - (b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.
- (36) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.
- (37) "Plan for moderate income housing" means a written document adopted by a city legislative body that includes:
 - (a) an estimate of the existing supply of moderate income housing located within the city;
 - (b) an estimate of the need for moderate income housing in the city for the next five years as revised biennially;
 - (c) a survey of total residential land use;

- (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
 - (e) a description of the city's program to encourage an adequate supply of moderate income housing.
- (38) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.
- (39) "Potential geologic hazard area" means an area that:
- (a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or
 - (b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.
- (40) "Public agency" means:
- (a) the federal government;
 - (b) the state;
 - (c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or
 - (d) a charter school.
- (41) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.
- (42) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.
- (43) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.
- (44) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.
- (45) "Residential facility for persons with a disability" means a residence:
- (a) in which more than one person with a disability resides; and
 - (b)
 - (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or
 - (ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
- (46) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:
- (a) parliamentary order and procedure;
 - (b) ethical behavior; and
 - (c) civil discourse.
- (47) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.
- (48) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.
- (49) "Specified public agency" means:
- (a) the state;
 - (b) a school district; or
 - (c) a charter school.

- (50) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.
- (51) "State" includes any department, division, or agency of the state.
- (52) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.
- (53)
- (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.
 - (b) "Subdivision" includes:
 - (i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and
 - (ii) except as provided in Subsection (53)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.
 - (c) "Subdivision" does not include:
 - (i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;
 - (ii) a recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:
 - (A) no new lot is created; and
 - (B) the adjustment does not violate applicable land use ordinances;
 - (iii) a recorded document, executed by the owner of record:
 - (A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or
 - (B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;
 - (iv) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:
 - (A) no new dwelling lot or housing unit will result from the adjustment; and
 - (B) the adjustment will not violate any applicable land use ordinance;
 - (v) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or
 - (vi) a parcel boundary adjustment.
 - (d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (53) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.
- (54) "Suspect soil" means soil that has:
- (a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;
 - (b) bedrock units with high shrink or swell susceptibility; or
 - (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.
- (55) "Therapeutic school" means a residential group living facility:

- (a) for four or more individuals who are not related to:
 - (i) the owner of the facility; or
 - (ii) the primary service provider of the facility;
 - (b) that serves students who have a history of failing to function:
 - (i) at home;
 - (ii) in a public school; or
 - (iii) in a nonresidential private school; and
 - (c) that offers:
 - (i) room and board; and
 - (ii) an academic education integrated with:
 - (A) specialized structure and supervision; or
 - (B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.
- (56) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.
- (57) "Unincorporated" means the area outside of the incorporated area of a city or town.
- (58) "Water interest" means any right to the beneficial use of water, including:
- (a) each of the rights listed in Section 73-1-11; and
 - (b) an ownership interest in the right to the beneficial use of water represented by:
 - (i) a contract; or
 - (ii) a share in a water company, as defined in Section 73-3-3.5.
- (59) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Amended by Chapter 327, 2015 General Session

10-9a-104 Stricter requirements.

- (1) Except as provided in Subsection (2), a municipality may enact an ordinance imposing stricter requirements or higher standards than are required by this chapter.
- (2) A municipality may not impose stricter requirements or higher standards than are required by:
 - (a) Section 10-9a-305; and
 - (b) Section 10-9a-514.

Amended by Chapter 309, 2013 General Session

Part 2
Notice

10-9a-201 Required notice.

- (1) At a minimum, each municipality shall provide actual notice or the notice required by this part.
- (2) A municipality may by ordinance require greater notice than required under this part.

Enacted by Chapter 254, 2005 General Session

10-9a-202 Applicant notice -- Waiver of requirements.

- (1) For each land use application, the municipality shall:
 - (a) notify the applicant of the date, time, and place of each public hearing and public meeting to consider the application;
 - (b) provide to each applicant a copy of each staff report regarding the applicant or the pending application at least three business days before the public hearing or public meeting; and
 - (c) notify the applicant of any final action on a pending application.
- (2) If a municipality fails to comply with the requirements of Subsection (1)(a) or (b) or both, an applicant may waive the failure so that the application may stay on the public hearing or public meeting agenda and be considered as if the requirements had been met.

Amended by Chapter 257, 2006 General Session

10-9a-203 Notice of intent to prepare a general plan or comprehensive general plan amendments in certain municipalities.

- (1) Before preparing a proposed general plan or a comprehensive general plan amendment, each municipality within a county of the first or second class shall provide 10 calendar days notice of its intent to prepare a proposed general plan or a comprehensive general plan amendment:
 - (a) to each affected entity;
 - (b) to the Automated Geographic Reference Center created in Section 63F-1-506;
 - (c) to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member; and
 - (d) on the Utah Public Notice Website created under Section 63F-1-701.
- (2) Each notice under Subsection (1) shall:
 - (a) indicate that the municipality intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;
 - (b) describe or provide a map of the geographic area that will be affected by the general plan or amendment;
 - (c) be sent by mail, e-mail, or other effective means;
 - (d) invite the affected entities to provide information for the municipality to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:
 - (i) impacts that the use of land proposed in the proposed general plan or amendment may have; and
 - (ii) uses of land within the municipality that the affected entity is considering that may conflict with the proposed general plan or amendment; and
 - (e) include the address of an Internet website, if the municipality has one, and the name and telephone number of a person where more information can be obtained concerning the municipality's proposed general plan or amendment.

Amended by Chapter 202, 2015 General Session

10-9a-204 Notice of public hearings and public meetings to consider general plan or modifications.

- (1) Each municipality shall provide:
 - (a) notice of the date, time, and place of the first public hearing to consider the original adoption or any modification of all or any portion of a general plan; and
 - (b) notice of each public meeting on the subject.
- (2) Each notice of a public hearing under Subsection (1)(a) shall be at least 10 calendar days before the public hearing and shall be:

- (a)
 - (i) published in a newspaper of general circulation in the area; and
 - (ii) published on the Utah Public Notice Website created in Section 63F-1-701;
- (b) mailed to each affected entity; and
- (c) posted:
 - (i) in at least three public locations within the municipality; or
 - (ii) on the municipality's official website.
- (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be:
 - (a)
 - (i) submitted to a newspaper of general circulation in the area; and
 - (ii) published on the Utah Public Notice Website created in Section 63F-1-701; and
 - (b) posted:
 - (i) in at least three public locations within the municipality; or
 - (ii) on the municipality's official website.

Amended by Chapter 90, 2010 General Session

10-9a-205 Notice of public hearings and public meetings on adoption or modification of land use ordinance.

- (1) Each municipality shall give:
 - (a) notice of the date, time, and place of the first public hearing to consider the adoption or any modification of a land use ordinance; and
 - (b) notice of each public meeting on the subject.
- (2) Each notice of a public hearing under Subsection (1)(a) shall be:
 - (a) mailed to each affected entity at least 10 calendar days before the public hearing;
 - (b) posted:
 - (i) in at least three public locations within the municipality; or
 - (ii) on the municipality's official website; and
 - (c)
 - (i)
 - (A) published in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and
 - (B) published on the Utah Public Notice Website created in Section 63F-1-701, at least 10 calendar days before the public hearing; or
 - (ii) mailed at least 10 days before the public hearing to:
 - (A) each property owner whose land is directly affected by the land use ordinance change; and
 - (B) each adjacent property owner within the parameters specified by municipal ordinance.
- (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be posted:
 - (a) in at least three public locations within the municipality; or
 - (b) on the municipality's official website.
- (4)
 - (a) If a municipality plans to hold a public hearing in accordance with Section 10-9a-502 to adopt a zoning map or map amendment, the municipality shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed map at least 10 days prior to the scheduled day of the public hearing.

- (b) The notice shall:
- (i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;
 - (ii) state the current zone in which the real property is located;
 - (iii) state the proposed new zone for the real property;
 - (iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;
 - (v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;
 - (vi) state the address where the property owner should file the protest;
 - (vii) notify the property owner that each written objection filed with the municipality will be provided to the municipal legislative body; and
 - (viii) state the location, date, and time of the public hearing described in Section 10-9a-502.
- (c) If a municipality mails notice to a property owner in accordance with Subsection (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this Subsection (4) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent separately.

Amended by Chapter 324, 2013 General Session

10-9a-206 Third party notice.

- (1) If a municipality requires notice to adjacent property owners, the municipality shall:
- (a) mail notice to the record owner of each parcel within parameters specified by municipal ordinance; or
 - (b) post notice on the property with a sign of sufficient size, durability, print quality, and location that is reasonably calculated to give notice to passers-by.
- (2) If a municipality mails notice to third party property owners under Subsection (1), it shall mail equivalent notice to property owners within an adjacent jurisdiction.

Enacted by Chapter 254, 2005 General Session

10-9a-207 Notice for an amendment to a subdivision -- Notice for vacation of or change to street.

- (1)
- (a) For an amendment to a subdivision, each municipality shall provide notice of the date, time, and place of at least one public meeting, as provided in Subsection (1)(b).
 - (b) At least 10 calendar days before the public meeting, the notice required under Subsection (1) shall be:
 - (i) mailed and addressed to the record owner of each parcel within specified parameters of that property; or
 - (ii) posted on the property proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passers-by.
- (2) Each municipality shall provide notice as required by Section 10-9a-208 for a subdivision that involves a vacation, alteration, or amendment of a street.

Amended by Chapter 338, 2009 General Session

10-9a-208 Hearing and notice for proposal to vacate a public street, right-of-way, or easement.

- (1) For any proposal to vacate some or all of a public street, right-of-way, or easement, the legislative body shall:
 - (a) hold a public hearing; and
 - (b) give notice of the date, place, and time of the hearing, as provided in Subsection (2).
- (2) At least 10 days before the public hearing under Subsection (1)(a), the notice required under Subsection (1)(b) shall be:
 - (a) mailed to the record owner of each parcel that is accessed by the public street, right-of-way, or easement;
 - (b) mailed to each affected entity;
 - (c) posted on or near the street, right-of-way, or easement in a manner that is calculated to alert the public; and
 - (d)
 - (i) published in a newspaper of general circulation in the municipality in which the land subject to the petition is located; and
 - (ii) published on the Utah Public Notice Website created in Section 63F-1-701.

Amended by Chapter 90, 2010 General Session

10-9a-209 Notice challenge.

If notice given under authority of this part is not challenged under Section 10-9a-801 within 30 days after the meeting or action for which notice is given, the notice is considered adequate and proper.

Enacted by Chapter 254, 2005 General Session

10-9a-210 Notice to municipality when a private institution of higher education is constructing student housing.

- (1) Each private institution of higher education that intends to construct student housing on property owned by the institution shall provide written notice of the intended construction, as provided in Subsection (2), before any funds are committed to the construction, if any of the proposed student housing buildings is within 300 feet of privately owned residential property.
- (2) Each notice under Subsection (1) shall be provided to the legislative body and, if applicable, the mayor of:
 - (a) the county in whose unincorporated area the privately owned residential property is located; or
 - (b) the municipality in whose boundaries the privately owned residential property is located.
- (3) At the request of a county or municipality that is entitled to notice under this section, the institution and the legislative body of the affected county or municipality shall jointly hold a public hearing to provide information to the public and receive input from the public about the proposed construction.

Enacted by Chapter 231, 2005 General Session

10-9a-211 Canal owner or operator -- Notice to municipality.

- (1) For purposes of Subsection 10-9a-509(1)(b)(iv), a canal company or a canal operator shall provide on or before July 1, 2010, any municipality in which the canal company or canal operator owns or operates a canal:
 - (a) a current mailing address and phone number;
 - (b) a contact name; and
 - (c) a general description of the location of each canal owned or operated by the canal owner or canal operator.
- (2) If the information described in Subsection (1) changes after a canal company or a canal operator has provided the information to the municipality, the canal company or canal operator shall provide the correct information within 30 days of the day on which the information was changed.

Enacted by Chapter 332, 2010 General Session

10-9a-212 Notice for an amendment to public improvements in a subdivision or development.

Prior to implementing an amendment to adopted specifications for public improvements that apply to subdivision or development, a municipality shall give 30 days mailed notice and an opportunity to comment to anyone who has requested the notice in writing.

Enacted by Chapter 216, 2012 General Session

Part 3 Planning Commission

10-9a-301 Ordinance establishing planning commission required -- Ordinance requirements -- Compensation.

- (1)
 - (a) Each municipality shall enact an ordinance establishing a planning commission.
 - (b) The ordinance shall define:
 - (i) the number and terms of the members and, if the municipality chooses, alternate members;
 - (ii) the mode of appointment;
 - (iii) the procedures for filling vacancies and removal from office;
 - (iv) the authority of the planning commission;
 - (v) subject to Subsection (1)(c), the rules of order and procedure for use by the planning commission in a public meeting; and
 - (vi) other details relating to the organization and procedures of the planning commission.
 - (c) Subsection (1)(b)(v) does not affect the planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.
- (2) The legislative body may fix per diem compensation for the members of the planning commission, based on necessary and reasonable expenses and on meetings actually attended.

Amended by Chapter 107, 2011 General Session

10-9a-302 Planning commission powers and duties.

The planning commission shall make a recommendation to the legislative body for:

- (1) a general plan and amendments to the general plan;
- (2) land use ordinances, zoning maps, official maps, and amendments;
- (3) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;
- (4) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and
- (5) application processes that:
 - (a) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and
 - (b) shall protect the right of each:
 - (i) applicant and third party to require formal consideration of any application by a land use authority;
 - (ii) applicant, adversely affected party, or municipal officer or employee to appeal a land use authority's decision to a separate appeal authority; and
 - (iii) participant to be heard in each public hearing on a contested application.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-303 Entrance upon land.

The municipality may enter upon any land at reasonable times to make examinations and surveys pertinent to the:

- (1) preparation of its general plan; or
- (2) preparation or enforcement of its land use ordinances.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-304 State and federal property -- Mountainous planning district.

- (1) Unless otherwise provided by law, nothing contained in this chapter may be construed as giving a municipality jurisdiction over property owned by the state or the United States.
- (2)
 - (a) Except as provided in Subsection (2)(b), for purposes of this chapter, a municipality, a municipal planning commission, or a municipal land use authority does not have jurisdiction over property located within a mountainous planning district as defined in Section 17-27a-103.
 - (b) Subsection (2)(a) does not apply to a municipality that:
 - (i)
 - (A) is wholly located within the boundaries of a mountainous planning district; and
 - (B) was incorporated in or before 1970;
 - (ii) is exercising its extraterritorial jurisdiction as authorized by Section 10-8-15; or
 - (iii) has been granted joint authority to regulate, subject to Subsection (2)(c), its watershed areas by a local health authority.
 - (c) The exception for a municipality under Subsection (2)(b)(iii) applies only for matters related to regulation of the watershed within a watershed area.

Amended by Chapter 465, 2015 General Session

10-9a-305 Other entities required to conform to municipality's land use ordinances -- Exceptions -- School districts and charter schools -- Submission of development plan and schedule.

- (1)
 - (a) Each county, municipality, school district, charter school, local district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality.
 - (b) In addition to any other remedies provided by law, when a municipality's land use ordinance is violated or about to be violated by another political subdivision, that municipality may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.
- (2)
 - (a) Except as provided in Subsection (3), a school district or charter school is subject to a municipality's land use ordinances.
 - (b)
 - (i) Notwithstanding Subsection (3), a municipality may:
 - (A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and
 - (B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).
 - (ii) The standards to which a municipality may subject a charter school under Subsection (2)(b)
 - (i) shall be objective standards only and may not be subjective.
 - (iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).
 - (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.
- (3) A municipality may not:
 - (a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, municipal building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;
 - (b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;
 - (c) require a district or charter school to pay fees not authorized by this section;
 - (d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;
 - (e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

- (f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or
- (g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:
 - (i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or
 - (ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.
- (4) Subject to Section 53A-20-108, a school district or charter school shall coordinate the siting of a new school with the municipality in which the school is to be located, to:
 - (a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and
 - (b) maximize school, student, and site safety.
- (5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:
 - (a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and
 - (b) provide recommendations based upon the walk-through.
- (6)
 - (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:
 - (i) a municipal building inspector;
 - (ii)
 - (A) for a school district, a school district building inspector from that school district; or
 - (B) for a charter school, a school district building inspector from the school district in which the charter school is located; or
 - (iii) an independent, certified building inspector who is:
 - (A) not an employee of the contractor;
 - (B) approved by:
 - (I) a municipal building inspector; or
 - (II)
 - (Aa) for a school district, a school district building inspector from that school district; or
 - (Bb) for a charter school, a school district building inspector from the school district in which the charter school is located; and
 - (C) licensed to perform the inspection that the inspector is requested to perform.
 - (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.
 - (c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and municipal building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.
 - (7)
 - (a) A charter school shall be considered a permitted use in all zoning districts within a municipality.
 - (b) Each land use application for any approval required for a charter school, including an application for a building permit, shall be processed on a first priority basis.
 - (c) Parking requirements for a charter school may not exceed the minimum parking requirements for schools or other institutional public uses throughout the municipality.

- (d) If a municipality has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school provides a waiver.
- (e)
 - (i) A school district or a charter school may seek a certificate authorizing permanent occupancy of a school building from:
 - (A) the state superintendent of public instruction, as provided in Subsection 53A-20-104(3), if the school district or charter school used an independent building inspector for inspection of the school building; or
 - (B) a municipal official with authority to issue the certificate, if the school district or charter school used a municipal building inspector for inspection of the school building.
 - (ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53A-20-104(3)(a)(ii).
 - (iii) A charter school may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school used a school district building inspector for inspection of the school building.
 - (iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53A-20-104(3) or a school district official with authority to issue the certificate shall be considered to satisfy any municipal requirement for an inspection or a certificate of occupancy.
- (8)
 - (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:
 - (i) as early as practicable in the development process, but no later than the commencement of construction; and
 - (ii) with sufficient detail to enable the land use authority to assess:
 - (A) the specified public agency's compliance with applicable land use ordinances;
 - (B) the demand for public facilities listed in Subsections 11-36a-102(16)(a), (b), (c), (d), (e), and (g) caused by the development;
 - (C) the amount of any applicable fee described in Section 10-9a-510;
 - (D) any credit against an impact fee; and
 - (E) the potential for waiving an impact fee.
 - (b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.
- (9) Nothing in this section may be construed to:
 - (a) modify or supersede Section 10-9a-304; or
 - (b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

Amended by Chapter 200, 2013 General Session

Part 4

General Plan

10-9a-401 General plan required -- Content.

- (1) In order to accomplish the purposes of this chapter, each municipality shall prepare and adopt a comprehensive, long-range general plan for:
 - (a) present and future needs of the municipality; and
 - (b) growth and development of all or any part of the land within the municipality.
- (2) The plan may provide for:
 - (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;
 - (b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;
 - (c) the efficient and economical use, conservation, and production of the supply of:
 - (i) food and water; and
 - (ii) drainage, sanitary, and other facilities and resources;
 - (d) the use of energy conservation and solar and renewable energy resources;
 - (e) the protection of urban development;
 - (f) the protection or promotion of moderate income housing;
 - (g) the protection and promotion of air quality;
 - (h) historic preservation;
 - (i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and
 - (j) an official map.
- (3) Subject to Subsection 10-9a-403(2), the municipality may determine the comprehensiveness, extent, and format of the general plan.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-402 Information and technical assistance from the state.

Each state official, department, and agency shall:

- (1) promptly deliver any data and information requested by a municipality unless the disclosure is prohibited by Title 63G, Chapter 2, Government Records Access and Management Act; and
- (2) furnish any other technical assistance and advice that they have available to the municipality without additional cost to the municipality.

Amended by Chapter 382, 2008 General Session

10-9a-403 Plan preparation.

- (1)
 - (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.
 - (b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

- (c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.
 - (d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.
- (2)
- (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:
 - (i) a land use element that:
 - (A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and
 - (B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;
 - (ii) a transportation and traffic circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that the planning commission considers appropriate, all correlated with the population projections and the proposed land use element of the general plan; and
 - (iii) for cities, an estimate of the need for the development of additional moderate income housing within the city, and a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur.
 - (b) In drafting the moderate income housing element, the planning commission:
 - (i) shall consider the Legislature's determination that cities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:
 - (A) to meet the needs of people desiring to live there; and
 - (B) to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life; and
 - (ii) may include an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within the planning horizon, which means or techniques may include a recommendation to:
 - (A) rezone for densities necessary to assure the production of moderate income housing;
 - (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;
 - (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate income housing;
 - (D) consider general fund subsidies to waive construction related fees that are otherwise generally imposed by the city;
 - (E) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;
 - (F) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and
 - (G) consider utilization of affordable housing programs administered by the Department of Workforce Services.

- (c) In drafting the land use element, the planning commission shall:
 - (i) identify and consider each agriculture protection area within the municipality; and
 - (ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.
- (3) The proposed general plan may include:
 - (a) an environmental element that addresses:
 - (i) the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and
 - (ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;
 - (b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;
 - (c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:
 - (i) historic preservation;
 - (ii) the diminution or elimination of blight; and
 - (iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;
 - (d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;
 - (e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;
 - (f) provisions addressing any of the matters listed in Subsection 10-9a-401(2); and
 - (g) any other element the municipality considers appropriate.

Amended by Chapter 212, 2012 General Session

10-9a-404 Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

- (1)
 - (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.
 - (b) The planning commission shall provide notice of the public hearing, as required by Section 10-9a-204.
 - (c) After the public hearing, the planning commission may modify the proposed general plan or amendment.
- (2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

- (3) The legislative body may make any revisions to the proposed general plan or amendment that it considers appropriate.
- (4)
 - (a) The municipal legislative body may adopt or reject the proposed general plan or amendment either as proposed by the planning commission or after making any revision that the municipal legislative body considers appropriate.
 - (b) If the municipal legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for its consideration.
- (5) The legislative body shall adopt:
 - (a) a land use element as provided in Subsection 10-9a-403(2)(a)(i);
 - (b) a transportation and traffic circulation element as provided in Subsection 10-9a-403(2)(a)(ii); and
 - (c) for all cities, after considering the factors included in Subsection 10-9a-403(2)(b)(ii), a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-405 Effect of general plan.

Except as provided in Section 10-9a-406, the general plan is an advisory guide for land use decisions, the impact of which shall be determined by ordinance.

Enacted by Chapter 254, 2005 General Session

10-9a-406 Public uses to conform to general plan.

After the legislative body has adopted a general plan, no street, park, or other public way, ground, place, or space, no publicly owned building or structure, and no public utility, whether publicly or privately owned, may be constructed or authorized until and unless it conforms to the current general plan.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-407 Effect of official maps.

- (1) Municipalities may adopt an official map.
- (2)
 - (a) An official map does not:
 - (i) require a landowner to dedicate and construct a street as a condition of development approval, except under circumstances provided in Subsection (2)(b)(iii); or
 - (ii) require a municipality to immediately acquire property it has designated for eventual use as a public street.
 - (b) This section does not prohibit a municipality from:
 - (i) recommending that an applicant consider and accommodate the location of the proposed streets in the planning of a development proposal in a manner that is consistent with Section 10-9a-508;
 - (ii) acquiring the property through purchase, gift, voluntary dedication, or eminent domain; or
 - (iii) requiring the dedication and improvement of a street if the street is found necessary by the municipality because of a proposed development and if the dedication and improvement are consistent with Section 10-9a-508.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-408 Biennial review of moderate income housing element of general plan.

- (1) The legislative body of each city shall biennially:
 - (a) review the moderate income housing plan element of its general plan and its implementation; and
 - (b) prepare a report setting forth the findings of the review.
- (2) Each report under Subsection (1) shall include a description of:
 - (a) efforts made by the city to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;
 - (b) actions taken by the city to encourage preservation of existing moderate income housing and development of new moderate income housing;
 - (c) progress made within the city to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and
 - (d) efforts made by the city to coordinate moderate income housing plans and actions with neighboring municipalities.
- (3) The legislative body of each city shall send a copy of the report under Subsection (1) to the Department of Workforce Services and the association of governments in which the city is located.
- (4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Amended by Chapter 212, 2012 General Session

Part 5 Land Use Ordinances

10-9a-501 Authority to enact land use ordinances and zoning map.

The legislative body may enact land use ordinances and a zoning map consistent with the purposes set forth in this chapter.

Amended by Chapter 240, 2006 General Session

10-9a-502 Preparation and adoption of land use ordinance or zoning map.

- (1) The planning commission shall:
 - (a) provide notice as required by Subsection 10-9a-205(1)(a) and, if applicable, Subsection 10-9a-205(4);
 - (b) hold a public hearing on a proposed land use ordinance or zoning map;
 - (c) if applicable, consider each written objection filed in accordance with Subsection 10-9a-205(4) prior to the public hearing; and
 - (d)
 - (i) prepare and recommend to the legislative body a proposed land use ordinance or ordinances and zoning map that represent the planning commission's recommendation

for regulating the use and development of land within all or any part of the area of the municipality; and

- (ii) forward to the legislative body all objections filed in accordance with Subsection 10-9a-205(4).
- (2) The municipal legislative body shall consider each proposed land use ordinance and zoning map recommended to it by the planning commission, and, after providing notice as required by Subsection 10-9a-205(1)(b) and holding a public meeting, the legislative body may adopt or reject the ordinance or map either as proposed by the planning commission or after making any revision the municipal legislative body considers appropriate.

Amended by Chapter 324, 2013 General Session

10-9a-503 Land use ordinance or zoning map amendments -- Limited prohibition on designation of historic district or area.

- (1) The legislative body may amend:
 - (a) the number, shape, boundaries, or area of any zoning district;
 - (b) any regulation of or within the zoning district; or
 - (c) any other provision of a land use ordinance.
- (2) The legislative body may not make any amendment authorized by this section unless the amendment was proposed by the planning commission or was first submitted to the planning commission for its recommendation.
- (3) The legislative body shall comply with the procedure specified in Section 10-9a-502 in preparing and adopting an amendment to a land use ordinance or a zoning map.
- (4)
 - (a) Notwithstanding Subsection (1), on or after May 10, 2011, and before May 14, 2013, within an area designated on the National Register of Historic Places that has on or before March 1, 2011, a land use application pending to designate the area as a local historic district or area, the legislative body of a city of the first class in a county of the first class may not:
 - (i) establish the local historic district or area;
 - (ii) adopt or amend a land use ordinance affecting the area except as provided in Subsection (4)(c); and
 - (iii) authorize a demolition permit for more than 75% of the above grade area of any structure on property located within the area.
 - (b) A land use application in an area subject to Subsection (4)(a):
 - (i) shall be stayed from any further proceedings conducted by the municipality before May 15, 2013; and
 - (ii) is not subject to Section 10-9a-509 or 10-9a-509.5.
 - (c) The provisions of this Subsection (4) do not apply to an adopted or amended land use ordinance applicable generally throughout a municipality unless the ordinance is enacted to contravene the purpose of this Subsection (4)(a).

Amended by Chapter 195, 2012 General Session

10-9a-504 Temporary land use regulations.

- (1)
 - (a) A municipal legislative body may, without prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary land use regulation for any part or all of the area within the municipality if:

- (i) the legislative body makes a finding of compelling, countervailing public interest; or
 - (ii) the area is unregulated.
- (b) A temporary land use regulation under Subsection (1)(a) may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure or any subdivision approval.
- (c) A temporary land use regulation under Subsection (1)(a) may not impose an impact fee or other financial requirement on building or development.
- (2) The municipal legislative body shall establish a period of limited effect for the ordinance not to exceed six months.
- (3)
 - (a) A municipal legislative body may, without prior planning commission consideration or recommendation, enact an ordinance establishing a temporary land use regulation prohibiting construction, subdivision approval, and other development activities within an area that is the subject of an Environmental Impact Statement or a Major Investment Study examining the area as a proposed highway or transportation corridor.
 - (b) A regulation under Subsection (3)(a):
 - (i) may not exceed six months in duration;
 - (ii) may be renewed, if requested by the Transportation Commission created under Section 72-1-301, for up to two additional six-month periods by ordinance enacted before the expiration of the previous regulation; and
 - (iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the Environmental Impact Statement or Major Investment Study is in progress.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-505 Zoning districts.

- (1)
 - (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.
 - (b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.
 - (c) A municipality may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:
 - (i) protect life; and
 - (ii) prevent:
 - (A) the substantial loss of real property; or
 - (B) substantial damage to real property.
- (2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zoning district, but the regulations in one zone may differ from those in other zones.
- (3)
 - (a) There is no minimum area or diversity of ownership requirement for a zone designation.
 - (b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a municipal decision.
- (4) A municipality may by ordinance exempt from specific zoning district standards a subdivision of land to accommodate the siting of a public utility infrastructure.

Amended by Chapter 327, 2015 General Session

10-9a-505.5 Limit on single family designation.

- (1) As used in this section, "single-family limit" means the number of unrelated individuals allowed to occupy each residential unit that is recognized by a land use authority in a zone permitting occupancy by a single family.
- (2) A municipality may not adopt a single-family limit that is less than:
 - (a) three, if the municipality has within its boundary:
 - (i) a state university; or
 - (ii) a private university with a student population of at least 20,000; or
 - (b) four, for each other municipality.

Amended by Chapter 172, 2012 General Session

10-9a-506 Regulating annexed territory.

- (1) The legislative body of each municipality shall assign a land use zone or a variety thereof to territory annexed to the municipality at the time the territory is annexed.
- (2) If the legislative body fails to assign a land use zone at the time the territory is annexed, all land uses within the annexed territory shall be compatible with surrounding uses within the municipality.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-507 Conditional uses.

- (1) A land use ordinance may include conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.
- (2)
 - (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
 - (b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

Amended by Chapter 245, 2005 General Session

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-508 Exactions -- Exaction for water interest -- Requirement to offer to original owner property acquired by exaction.

- (1) A municipality may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (3), an exaction for a water interest, if:
 - (a) an essential link exists between a legitimate governmental interest and each exaction; and
 - (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.
- (2) If a land use authority imposes an exaction for another governmental entity:
 - (a) the governmental entity shall request the exaction; and

- (b) the land use authority shall transfer the exaction to the governmental entity for which it was exacted.
- (3)
 - (a)
 - (i) A municipality shall base any exaction for a water interest on the culinary water authority's established calculations of projected water interest requirements.
 - (ii) Upon an applicant's request, the culinary water authority shall provide the applicant with the basis for the culinary water authority's calculations under Subsection (3)(a)(i) on which an exaction for a water interest is based.
 - (b) A municipality may not impose an exaction for a water interest if the culinary water authority's existing available water interests exceed the water interests needed to meet the reasonable future water requirement of the public, as determined under Subsection 73-1-4(2)(f).
- (4)
 - (a) If a municipality plans to dispose of surplus real property that was acquired under this section and has been owned by the municipality for less than 15 years, the municipality shall first offer to reconvey the property, without receiving additional consideration, to the person who granted the property to the municipality.
 - (b) A person to whom a municipality offers to reconvey property under Subsection (4)(a) has 90 days to accept or reject the municipality's offer.
 - (c) If a person to whom a municipality offers to reconvey property declines the offer, the municipality may offer the property for sale.
 - (d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by a community development and renewal agency.

Amended by Chapter 309, 2013 General Session

10-9a-509 Applicant's entitlement to land use application approval -- Exceptions -- Application relating to land in a high priority transportation corridor -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

- (1)
 - (a)
 - (i) An applicant who has filed a complete land use application, including the payment of all application fees, is entitled to substantive land use review of the land use application under the land use laws in effect on the date that the application is complete and as further provided in this section.
 - (ii) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a land use application if the application conforms to the requirements of the municipality's land use maps, zoning map, a municipal specification for public improvements applicable to a subdivision or development, and an applicable land use ordinance in effect when a complete application is submitted and all application fees have been paid, unless:
 - (A) the land use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or
 - (B) in the manner provided by local ordinance and before the application is submitted, the municipality has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted.
 - (b)

- (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval of a land use application until the requirements of this Subsection (1)(b) have been met if the land use application relates to land located within the boundaries of a high priority transportation corridor designated in accordance with Section 72-5-403.
- (ii)
 - (A) A municipality shall notify the executive director of the Department of Transportation of any land use applications that relate to land located within the boundaries of a high priority transportation corridor.
 - (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by certified or registered mail to the executive director of the Department of Transportation.
- (iii) Except as provided in Subsection (1)(c), a municipality may not approve a land use application that relates to land located within the boundaries of a high priority transportation corridor until:
 - (A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for a building permit; or
 - (B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for any land use other than a building permit.
- (iv)
 - (A) If an application is an application for a subdivision approval, including any land, subject to Subsection (1)(b)(iv)(C), located within 100 feet of the center line of a canal, the land use authority shall:
 - (I) within 30 days after the day on which the application is filed, notify the canal company or canal operator responsible for the canal, if the canal company or canal operator has provided information under Section 10-9a-211; and
 - (II) wait at least 10 days after the day on which the land use authority notifies a canal company or canal operator under Subsection (1)(b)(iv)(A)(I) to approve or reject the subdivision application described in Subsection (1)(b)(iv)(A).
 - (B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by certified or registered mail to the canal company or canal operator contact described in Section 10-9a-211.
 - (C) The location of land described in Subsection (1)(b)(iv)(A) shall be:
 - (I) provided by a canal company or canal operator to the land use authority; and
 - (II)
 - (Aa) determined by use of mapping-grade global positioning satellite units; or
 - (Bb) digitized from the most recent aerial photo available to the canal company or canal operator.
- (c)
 - (i) A land use application is exempt from the requirements of Subsections (1)(b)(i) and (ii) if:
 - (A) the land use application relates to land that was the subject of a previous land use application; and
 - (B) the previous land use application described under Subsection (1)(c)(i)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).
 - (ii) A municipality may approve a land use application without making the required notifications under Subsection (1)(b)(ii)(A) if:
 - (A) the land use application relates to land that was the subject of a previous land use application; and

- (B) the previous land use application described under Subsection (1)(c)(ii)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).
- (d) After a municipality has complied with the requirements of Subsection (1)(b) for a land use application, the municipality may not withhold approval of the land use application for which the applicant is otherwise entitled under Subsection (1)(a).
- (e) The municipality shall process an application without regard to proceedings initiated to amend the municipality's ordinances as provided in Subsection (1)(a)(ii)(B) if:
 - (i) 180 days have passed since the proceedings were initiated; and
 - (ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.
- (f) An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.
- (g) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.
- (h) A municipality may not impose on an applicant who has submitted a complete application for preliminary subdivision approval a requirement that is not expressed in:
 - (i) this chapter;
 - (ii) a municipal ordinance; or
 - (iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.
- (i) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:
 - (i) in a land use permit;
 - (ii) on the subdivision plat;
 - (iii) in a document on which the land use permit or subdivision plat is based;
 - (iv) in the written record evidencing approval of the land use permit or subdivision plat;
 - (v) in this chapter; or
 - (vi) in a municipal ordinance.
- (j) A municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:
 - (i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or
 - (ii) in this chapter or the municipality's ordinances.
- (2) A municipality is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances.
- (3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.
- (4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use ordinances in effect on the date of submission.

Amended by Chapter 136, 2014 General Session

10-9a-509.5 Review for application completeness -- Substantive application review -- Reasonable diligence required for determination of whether improvements or warranty work meets standards -- Money damages claim prohibited.

- (1)
- (a) Each municipality shall, in a timely manner, determine whether an application is complete for the purposes of subsequent, substantive land use authority review.
 - (b) After a reasonable period of time to allow the municipality diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees have been paid, the applicant may in writing request that the municipality provide a written determination either that the application is:
 - (i) complete for the purposes of allowing subsequent, substantive land use authority review; or
 - (ii) deficient with respect to a specific, objective, ordinance-based application requirement.
 - (c) Within 30 days of receipt of an applicant's request under this section, the municipality shall either:
 - (i) mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the application shall be supplemented by specific additional information identified in the notice; or
 - (ii) accept the application as complete for the purposes of further substantive processing by the land use authority.
 - (d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.
 - (e)
 - (i) The applicant may raise and resolve in a single appeal any determination made under this Subsection (1) to the appeal authority, including an allegation that a reasonable period of time has elapsed under Subsection (1)(a).
 - (ii) The appeal authority shall issue a written decision for any appeal requested under this Subsection (1)(e).
 - (f)
 - (i) The applicant may appeal to district court the decision of the appeal authority made under Subsection (1)(e).
 - (ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of the written decision.
- (2)
- (a) Each land use authority shall substantively review a complete application and an application considered complete under Subsection (1)(d), and shall approve or deny each application with reasonable diligence.
 - (b) After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.
 - (c) The land use authority shall take final action, approving or denying the application within 45 days of the written request.
 - (d) If the land use authority denies an application processed under the mandates of Subsection (2)(b), or if the applicant has requested a written decision in the application, the land use authority shall include its reasons for denial in writing, on the record, which may include the official minutes of the meeting in which the decision was rendered.

- (e) If the land use authority fails to comply with Subsection (2)(c), the applicant may appeal this failure to district court within 30 days of the date on which the land use authority is required to take final action under Subsection (2)(c).
- (3)
 - (a) With reasonable diligence, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the municipality's adopted standards.
 - (b)
 - (i) An applicant may in writing request the land use authority to accept or reject the applicant's installation of required subdivision improvements or performance of warranty work.
 - (ii) The land use authority shall accept or reject subdivision improvements within 15 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is impeded by winter weather conditions.
 - (iii) The land use authority shall accept or reject the performance of warranty work within 45 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 45-day period if inspection of the warranty work is impeded by winter weather conditions.
 - (c) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the municipality's adopted standards, the land use authority shall comprehensively and with specificity list the reasons for its determination.
- (4) Subject to Section 10-9a-509, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.
- (5) There shall be no money damages remedy arising from a claim under this section.

Amended by Chapter 378, 2010 General Session

10-9a-509.7 Transferable development rights.

- (1) A municipality may adopt an ordinance:
 - (a) designating sending zones and receiving zones within the municipality; and
 - (b) allowing the transfer of a transferable development right from a sending zone to a receiving zone.
- (2) A municipality may not allow the use of a transferable development right unless the municipality adopts an ordinance described in Subsection (1).

Amended by Chapter 231, 2012 General Session

10-9a-510 Limit on fees -- Requirement to itemize fees -- Appeal of fee -- Provider of culinary or secondary water.

- (1) A municipality may not impose or collect a fee for reviewing or approving the plans for a commercial or residential building that exceeds the lesser of:
 - (a) the actual cost of performing the plan review; and
 - (b) 65% of the amount the municipality charges for a building permit fee for that building.
- (2) Subject to Subsection (1), a municipality may impose and collect only a nominal fee for reviewing and approving identical floor plans.

- (3) A municipality may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, and appurtenance to connect to the municipal water, sewer, storm water, power, or other utility system.
- (4) A municipality may not impose or collect:
 - (a) a land use application fee that exceeds the reasonable cost of processing the application or issuing the permit; or
 - (b) an inspection, regulation, or review fee that exceeds the reasonable cost of performing the inspection, regulation, or review.
- (5)
 - (a) If requested by an applicant who is charged a fee or an owner of residential property upon which a fee is imposed, the municipality shall provide an itemized fee statement that shows the calculation method for each fee.
 - (b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for an itemized fee statement no later than 30 days after the day on which the applicant or owner pays the fee, the municipality shall no later than 10 days after the day on which the request is received provide or commit to provide within a specific time:
 - (i) for each fee, any studies, reports, or methods relied upon by the municipality to create the calculation method described in Subsection (5)(a);
 - (ii) an accounting of each fee paid;
 - (iii) how each fee will be distributed; and
 - (iv) information on filing a fee appeal through the process described in Subsection (5)(c).
 - (c) A municipality shall establish a fee appeal process subject to an appeal authority described in Part 7, Appeal Authority and Variances, and district court review in accordance with Part 8, District Court Review, to determine whether a fee reflects only the reasonable estimated cost of:
 - (i) regulation;
 - (ii) processing an application;
 - (iii) issuing a permit; or
 - (iv) delivering the service for which the applicant or owner paid the fee.
- (6) A municipality may not impose on or collect from a public agency any fee associated with the public agency's development of its land other than:
 - (a) subject to Subsection (4), a fee for a development service that the public agency does not itself provide;
 - (b) subject to Subsection (3), a hookup fee; and
 - (c) an impact fee for a public facility listed in Subsection 11-36a-102(16)(a), (b), (c), (d), (e), or (g), subject to any applicable credit under Subsection 11-36a-402(2).
- (7) A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following as if it were a municipality:
 - (a) Subsections (5) and (6);
 - (b) Section 10-9a-508; and
 - (c) Section 10-9a-509.5.

Amended by Chapter 200, 2013 General Session

10-9a-511 Nonconforming uses and noncomplying structures.

- (1)
 - (a) Except as provided in this section, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.

- (b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.
 - (c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.
- (2) The legislative body may provide for:
- (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;
 - (b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and
 - (c) the termination of a nonconforming use due to its abandonment.
- (3)
- (a) A municipality may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.
 - (b) A municipality may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:
 - (i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after written notice to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or
 - (ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.
 - (c)
 - (i) Notwithstanding a prohibition in its zoning ordinance, a municipality may permit a billboard owner to relocate the billboard within the municipality's boundaries to a location that is mutually acceptable to the municipality and the billboard owner.
 - (ii) If the municipality and billboard owner cannot agree to a mutually acceptable location within 90 days after the owner submits a written request to relocate the billboard, the provisions of Subsection 10-9a-513(2)(a)(iv) apply.
- (4)
- (a) Unless the municipality establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.
 - (b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.
 - (c) Abandonment may be presumed to have occurred if:
 - (i) a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the municipality regarding an extension of the nonconforming use;
 - (ii) the use has been discontinued for a minimum of one year; or
 - (iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.
 - (d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and shall have the burden of establishing that any claimed abandonment under Subsection (4)(b) has not in fact occurred.

- (5) A municipality may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

Amended by Chapter 205, 2015 General Session

10-9a-511.5 Changes to dwellings -- Egress windows.

- (1) For purposes of this section, "rental dwelling" means the same as that term is defined in Section 10-8-85.5.
- (2) A municipal ordinance adopted under Section 10-1-203.5 may not:
 - (a) require physical changes in a structure with a legal nonconforming rental dwelling use unless the change is for:
 - (i) the reasonable installation of:
 - (A) a smoke detector that is plugged in or battery operated;
 - (B) a ground fault circuit interrupter protected outlet on existing wiring;
 - (C) street addressing;
 - (D) except as provided in Subsection (3), an egress bedroom window if the existing bedroom window is smaller than that required by current State Construction Code;
 - (E) an electrical system or a plumbing system, if the existing system is not functioning or is unsafe as determined by an independent electrical or plumbing professional who is licensed in accordance with Title 58, Occupations and Professions;
 - (F) hand or guard rails; or
 - (G) occupancy separation doors as required by the International Residential Code; or
 - (ii) the abatement of a structure; or
 - (b) be enforced to terminate a legal nonconforming rental dwelling use.
- (3) A municipality may not require physical changes to install an egress or emergency escape window in an existing bedroom that complied with the State Construction Code in effect at the time the bedroom was finished if:
 - (a) the dwelling is an owner-occupied dwelling or a rental dwelling that is:
 - (i) a detached one-, two-, three-, or four-family dwelling; or
 - (ii) a town home that is not more than three stories above grade with a separate means of egress; and
 - (b)
 - (i) the window in the existing bedroom is smaller than that required by current State Construction Code; and
 - (ii) the change would compromise the structural integrity of the structure or could not be completed in accordance with current State Construction Code, including set-back and window well requirements.
- (4) Nothing in this section prohibits a municipality from:
 - (a) regulating the style of window that is required or allowed in a bedroom;
 - (b) requiring that a window in an existing bedroom be fully openable if the openable area is less than required by current State Construction Code; or
 - (c) requiring that an existing window not be reduced in size if the openable area is smaller than required by current State Construction Code.

Enacted by Chapter 205, 2015 General Session

10-9a-512 Termination of a billboard and associated rights.

- (1) A municipality may only require termination of a billboard and associated property rights through:
 - (a) gift;
 - (b) purchase;
 - (c) agreement;
 - (d) exchange; or
 - (e) eminent domain.
- (2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent of the billboard owner.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-513 Municipality's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboards to be rebuilt or replaced -- Validity of municipal permit after issuance of state permit.

- (1) As used in this section:
 - (a) "Clearly visible" means capable of being read without obstruction by an occupant of a vehicle traveling on a street or highway within the visibility area.
 - (b) "Highest allowable height" means:
 - (i) if the height allowed by the municipality, by ordinance or consent, is higher than the height under Subsection (1)(b)(ii), the height allowed by the municipality; or
 - (ii)
 - (A) for a noninterstate billboard:
 - (I) if the height of the previous use or structure is 45 feet or higher, the height of the previous use or structure; or
 - (II) if the height of the previous use or structure is less than 45 feet, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than 45 feet; and
 - (B) for an interstate billboard:
 - (I) if the height of the previous use or structure is at or above the interstate height, the height of the previous use or structure; or
 - (II) if the height of the previous use or structure is less than the interstate height, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than the interstate height.
 - (c) "Interstate billboard" means a billboard that is intended to be viewed from a highway that is an interstate.
 - (d) "Interstate height" means a height that is the higher of:
 - (i) 65 feet above the ground; and
 - (ii) 25 feet above the grade of the interstate.
 - (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a street or highway that is not an interstate.
 - (f) "Visibility area" means the area on a street or highway that is:
 - (i) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and
 - (ii) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:
 - (A) perpendicular to the street or highway; and

- (B)
 - (I) for an interstate billboard, 500 feet from the base of the billboard; or
 - (II) for a noninterstate billboard, 300 feet from the base of the billboard.
- (2)
 - (a) A municipality is considered to have initiated the acquisition of a billboard structure by eminent domain if the municipality prevents a billboard owner from:
 - (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged by casualty, an act of God, or vandalism;
 - (ii) except as provided in Subsection (2)(c), relocating or rebuilding a billboard structure, or taking other measures, to correct a mistake in the placement or erection of a billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit;
 - (iii) structurally modifying or upgrading a billboard;
 - (iv) relocating a billboard into any commercial, industrial, or manufacturing zone within the municipality's boundaries, if:
 - (A) the relocated billboard is:
 - (I) within 5,280 feet of its previous location; and
 - (II) no closer than:
 - (Aa) 300 feet from an off-premise sign existing on the same side of the street or highway; or
 - (Bb) if the street or highway is an interstate or limited access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act between the relocated billboard and an off-premise sign existing on the same side of the interstate or limited access highway; and
 - (B)
 - (I) the billboard owner has submitted a written request under Subsection 10-9a-511(3)(c); and
 - (II) the municipality and billboard owner are unable to agree, within the time provided in Subsection 10-9a-511(3)(c), to a mutually acceptable location; or
 - (v) making the following modifications, as the billboard owner determines, to a billboard that is structurally modified or upgraded under Subsection (2)(a)(iii) or relocated under Subsection (2)(a)(iv):
 - (A) erecting the billboard:
 - (I) to the highest allowable height; and
 - (II) as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible; and
 - (B) installing a sign face on the billboard that is at least the same size as, but no larger than, the sign face on the billboard before its relocation.
 - (b) A modification under Subsection (2)(a)(v) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.
 - (c) A municipality's denial of a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a billboard does not constitute the initiation of acquisition by eminent domain under Subsection (2)(a) if the mistake in placement or erection of the billboard is determined by clear and convincing evidence to have resulted from an intentionally false or misleading statement:
 - (i) by the billboard applicant in the application; and
 - (ii) regarding the placement or erection of the billboard.

- (d) If a municipality is considered to have initiated the acquisition of a billboard structure by eminent domain under Subsection (2)(a) or any other provision of applicable law, the municipality shall pay just compensation to the billboard owner in an amount that is:
 - (i) the value of the existing billboard at a fair market capitalization rate, based on actual annual revenue, less any annual rent expense;
 - (ii) the value of any other right associated with the billboard structure that is acquired;
 - (iii) the cost of the sign structure; and
 - (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the billboard owner's interest is a part.
- (3) Notwithstanding Subsection (2) and Section 10-9a-512, a municipality may remove a billboard without providing compensation if:
 - (a) the municipality determines:
 - (i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or
 - (ii) by substantial evidence that the billboard:
 - (A) is structurally unsafe;
 - (B) is in an unreasonable state of repair; or
 - (C) has been abandoned for at least 12 months;
 - (b) the municipality notifies the owner in writing that the owner's billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);
 - (c) the owner fails to remedy the condition or conditions within:
 - (i) except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's receipt of written notice under Subsection (3)(b); or
 - (ii) if the condition forming the basis of the municipality's intention to remove the billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a natural disaster, following the billboard owner's receipt of written notice under Subsection (3)(b); and
 - (d) following the expiration of the applicable period under Subsection (3)(c) and after providing the owner with reasonable notice of proceedings and an opportunity for a hearing, the municipality finds:
 - (i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or
 - (ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.
- (4) A municipality may not allow a nonconforming billboard to be rebuilt or replaced by anyone other than its owner or the owner acting through its contractors.
- (5) A permit issued, extended, or renewed by a municipality for a billboard remains valid from the time the municipality issues, extends, or renews the permit until 180 days after a required state permit is issued for the billboard if:
 - (a) the billboard requires a state permit; and
 - (b) an application for the state permit is filed within 30 days after the municipality issues, extends, or renews a permit for the billboard.

Amended by Chapter 170, 2009 General Session
Amended by Chapter 233, 2009 General Session

10-9a-514 Manufactured homes.

- (1) For purposes of this section, a manufactured home is the same as defined in Section 15A-1-302, except that the manufactured home shall be attached to a permanent foundation in accordance with plans providing for vertical loads, uplift, and lateral forces and frost protection in compliance with the applicable building code. All appendages, including carports, garages, storage buildings, additions, or alterations shall be built in compliance with the applicable building code.
- (2) A manufactured home may not be excluded from any land use zone or area in which a single-family residence would be permitted, provided the manufactured home complies with all local land use ordinances, building codes, and any restrictive covenants, applicable to a single family residence within that zone or area.
- (3) A municipality may not:
 - (a) adopt or enforce an ordinance or regulation that treats a proposed development that includes manufactured homes differently than one that does not include manufactured homes; or
 - (b) reject a development plan based on the fact that the development is expected to contain manufactured homes.

Amended by Chapter 14, 2011 General Session

10-9a-515 Regulation of amateur radio antennas.

- (1) A municipality may not enact or enforce an ordinance that does not comply with the ruling of the Federal Communications Commission in "Amateur Radio Preemption, 101 FCC 2nd 952 (1985)" or a regulation related to amateur radio service adopted under 47 C.F.R. Part 97.
- (2) If a municipality adopts an ordinance involving the placement, screening, or height of an amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance shall:
 - (a) reasonably accommodate amateur radio communications; and
 - (b) represent the minimal practicable regulation to accomplish the municipality's purpose.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-516 Regulation of residential facilities for persons with disabilities.

A municipality may only regulate a residential facility for persons with a disability to the extent allowed by:

- (1) Title 57, Chapter 21, Utah Fair Housing Act, and applicable jurisprudence;
- (2) the Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., and applicable jurisprudence; and
- (3) Section 504, Rehabilitation Act of 1973, and applicable jurisprudence.

Repealed and Re-enacted by Chapter 309, 2013 General Session

10-9a-520 Licensing of residences for persons with a disability.

The responsibility to license programs or entities that operate facilities for persons with a disability, as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with:

- (1) for programs or entities licensed or certified by the Department of Human Services, the Department of Human Services as provided in Title 62A, Chapter 5, Services for People with Disabilities; and

- (2) for programs or entities licensed or certified by the Department of Health, the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

Amended by Chapter 309, 2013 General Session

10-9a-521 Wetlands.

A municipality may not designate or treat any land as wetlands unless the United States Army Corps of Engineers or other agency of the federal government has designated the land as wetlands.

Enacted by Chapter 388, 2007 General Session

10-9a-522 Refineries.

- (1) As used in this section, "develop" or "development" means:
- (a) the construction, alteration, or improvement of land, including any related moving, demolition, or excavation outside of a refinery property boundary;
 - (b) the subdivision of land for a non-industrial use; or
 - (c) the construction of a non-industrial structure on a parcel that is not subject to the subdivision process.
- (2) Before a legislative body may adopt a non-industrial zoning change to permit development within 500 feet of a refinery boundary, the legislative body shall consult with the refinery to determine whether the proposed change is compatible with the refinery.
- (3) Before a land use authority may approve an application to develop within 500 feet of a refinery boundary, the land use authority shall consult with the refinery to determine whether the development is compatible with the refinery.
- (4) A legislative body described in Subsection (2), or a land use authority described in Subsection (3), may not request from the refinery:
- (a) proprietary information;
 - (b) information, if made public, that would create a security or safety risk to the refinery or the public;
 - (c) information that is restricted from public disclosure under federal or state law; or
 - (d) information that is available in public record.
- (5)
- (a) This section does not grant authority to a legislative body described in Subsection (2), or a land use authority described in Subsection (3), to require a refinery to undertake or cease an action.
 - (b) This section does not create a cause of action against a refinery.
 - (c) Except as expressly provided in this section, this section does not alter or remove any legal right or obligation of a refinery.

Enacted by Chapter 306, 2010 General Session

10-9a-523 Parcel boundary adjustment.

- (1) A property owner:
- (a) may execute a parcel boundary adjustment by quitclaim deed or by a boundary line agreement as described in Section 57-1-45; and
 - (b) shall record the quitclaim deed or boundary line agreement in the office of the county recorder.

- (2) A parcel boundary adjustment is not subject to the review of a land use authority.

Enacted by Chapter 334, 2013 General Session

10-9a-524 Boundary line agreement.

- (1) As used in this section, "boundary line agreement" is an agreement described in Section 57-1-45.
- (2) A property owner:
 - (a) may execute a boundary line agreement; and
 - (b) shall record a boundary line agreement in the office of the county recorder.
- (3) A boundary line agreement is not subject to the review of a land use authority.

Enacted by Chapter 334, 2013 General Session

10-9a-525 High tunnels -- Exemption from municipal regulation.

- (1) As used in this section, "high tunnel" means a structure that:
 - (a) is not a permanent structure;
 - (b) is used for the keeping, storing, sale, or shelter of an agricultural commodity; and
 - (c) has a:
 - (i) metal, wood, or plastic frame;
 - (ii) plastic, woven textile, or other flexible covering; and
 - (iii) floor made of soil, crushed stone, matting, pavers, or a floating concrete slab.
- (2) A municipal building code does not apply to a high tunnel.
- (3) No building permit shall be required for the construction of a high tunnel.

Enacted by Chapter 129, 2015 General Session

Part 6 Subdivisions

10-9a-601 Enactment of subdivision ordinance.

- (1) The legislative body of a municipality may enact ordinances requiring that a subdivision plat comply with the provisions of the ordinance and this part before:
 - (a) it may be filed or recorded in the county recorder's office; and
 - (b) lots may be sold.
- (2) If the legislative body fails to enact a subdivision ordinance, the municipality may regulate subdivisions only to the extent provided in this part.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-602 Planning commission preparation and recommendation of subdivision ordinance -- Adoption or rejection by legislative body.

- (1) The planning commission shall:
 - (a) prepare and recommend a proposed ordinance to the legislative body that regulates the subdivision of land;

- (b) prepare and recommend or consider and recommend a proposed ordinance that amends the regulation of the subdivision of the land in the municipality;
 - (c) provide notice consistent with Section 10-9a-205; and
 - (d) hold a public hearing on the proposed ordinance before making its final recommendation to the legislative body.
- (2) The municipal legislative body may adopt or reject the ordinance either as proposed by the planning commission or after making any revision the legislative body considers appropriate.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-603 Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

- (1) Unless exempt under Section 10-9a-605 or excluded from the definition of subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:
- (a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;
 - (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;
 - (c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and
 - (d) every existing right-of-way and easement grant of record for an underground facility, as defined in Section 54-8a-2, and for any other utility facility.
- (2)
- (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the municipality consider the local health department's approval necessary, the municipality shall approve the plat.
 - (b) Municipalities are encouraged to receive a recommendation from the fire authority before approving a plat.
 - (c) A municipality may not require that a plat be approved or signed by a person or entity who:
 - (i) is not an employee or agent of the municipality;
 - (ii) does not:
 - (A) have a legal or equitable interest in the property within the proposed subdivision;
 - (B) provide a utility or other service directly to a lot within the subdivision;
 - (C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or
 - (D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision; or
 - (iii) is not entitled to notice of the subdivision pursuant to Subsection 10-9a-509(1)(b)(iv) for the purpose of determining the accuracy of the information depicted on the plat.

- (3) The municipality may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.
- (4)
- (a) A plat may not be submitted to a county recorder for recording unless:
 - (i) prior to recordation, each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and
 - (ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as provided by law.
 - (b) The surveyor making the plat shall certify that the surveyor:
 - (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
 - (ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and
 - (iii) has placed monuments as represented on the plat.
 - (c)
 - (i) To the extent possible, the surveyor shall consult with the owner or operator of an existing or proposed underground facility or utility facility within the proposed subdivision, or a representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:
 - (A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;
 - (B) location of an existing underground facility and utility facility; and
 - (C) physical restrictions governing the location of the underground facility and utility facility within the subdivision.
 - (ii) The cooperation of an owner or operator under Subsection (4)(c)(i):
 - (A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and
 - (B) does not affect a right that the owner or operator has under:
 - (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;
 - (II) a recorded easement or right-of-way;
 - (III) the law applicable to prescriptive rights; or
 - (IV) any other provision of law.
- (5)
- (a) After the plat has been acknowledged, certified, and approved, the owner of the land shall, within the time period designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.
 - (b) An owner's failure to record a plat within the time period designated by ordinance renders the plat voidable.

Amended by Chapter 327, 2015 General Session

10-9a-604 Subdivision plat approval procedure -- Effect of not complying.

- (1) A person may not submit a subdivision plat to the county recorder's office for recording unless:
- (a) the person has complied with the requirements of Subsection 10-9a-603(4)(a);
 - (b) the plat has been approved by:
 - (i) the land use authority of the municipality in which the land described in the plat is located; and

- (ii) other officers that the municipality designates in its ordinance; and
 - (c) all approvals described in Subsection (1)(b) are entered in writing on the plat by the designated officers.
- (2) A subdivision plat recorded without the signatures required under this section is void.
- (3) A transfer of land pursuant to a void plat is voidable.

Amended by Chapter 381, 2010 General Session

10-9a-604.5 Subdivision plat recording or development activity before required infrastructure is completed -- Infrastructure completion assurance -- Infrastructure warranty.

- (1) A land use authority shall establish objective inspection standards for acceptance of a required landscaping or infrastructure improvement.
- (2)
- (a) A land use authority shall require an applicant to complete a required landscaping or infrastructure improvement prior to any plat recordation or development activity.
 - (b) Subsection (2)(a) does not apply if:
 - (i) upon the applicant's request, the land use authority has authorized the applicant to post an improvement completion assurance in a manner that is consistent with local ordinance; and
 - (ii) the land use authority has established a system for the partial release of the improvement completion assurance as portions of required improvements are completed and accepted.
- (3) At any time up to the land use authority's acceptance of a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the land use authority may require the developer to:
- (a) execute an improvement warranty for the improvement warranty period; and
 - (b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the municipality, in the amount of up to 10% of the lesser of the:
 - (i) municipal engineer's original estimated cost of completion; or
 - (ii) applicant's reasonable proven cost of completion.
- (4) The provisions of this section may not be interpreted to supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Amended by Chapter 327, 2015 General Session

10-9a-605 Exemptions from plat requirement.

- (1) Notwithstanding Sections 10-9a-603 and 10-9a-604, the land use authority may approve a subdivision of 10 lots or less without a plat, by certifying in writing that:
- (a) the municipality has provided notice as required by ordinance; and
 - (b) the proposed subdivision:
 - (i) is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes;
 - (ii) has been approved by the culinary water authority and the sanitary sewer authority;
 - (iii) is located in a zoned area; and
 - (iv) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.
- (2)
- (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of Section 10-9a-603 if the lot or parcel:

- (i) qualifies as land in agricultural use under Section 59-2-502;
 - (ii) meets the minimum size requirement of applicable land use ordinances; and
 - (iii) is not used and will not be used for any nonagricultural purpose.
 - (b) The boundaries of each lot or parcel exempted under Subsection (2)(a) shall be graphically illustrated on a record of survey map that, after receiving the same approvals as are required for a plat under Section 10-9a-604, shall be recorded with the county recorder.
 - (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the municipality may require the lot or parcel to comply with the requirements of Section 10-9a-603.
- (3)
- (a) Documents recorded in the county recorder's office that divide property by a metes and bounds description do not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.
 - (b) The absence of the certificate or written approval required by Subsection (1) does not:
 - (i) prohibit the county recorder from recording a document; or
 - (ii) affect the validity of a recorded document.
 - (c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached in accordance with Section 57-3-106.

Amended by Chapter 381, 2010 General Session

10-9a-606 Common or community area parcels on a plat -- No separate ownership -- Ownership interest equally divided among other parcels on plat and included in description of other parcels.

- (1)
- (a) A parcel designated as a common or community area on a plat recorded in compliance with this part may not be separately owned or conveyed independent of the other lots, units, or parcels created by the plat unless:
 - (i) the parcel is being acquired by a municipality for a governmental purpose; and
 - (ii) the conveyance is approved by the owners of at least 75% of the lots, units, or parcels on the plat, after the municipality gives its approval.
 - (b) A notice of the owner approval described in Subsection (1)(a)(ii) shall be:
 - (i) attached as an exhibit to the document of conveyance; or
 - (ii) recorded concurrently with the conveyance as a separate document.
- (2) The ownership interest in a parcel described in Subsection (1) shall:
- (a) for purposes of assessment, be divided equally among all parcels created by the plat, unless a different division of interest for assessment purposes is indicated on the plat or an accompanying recorded document; and
 - (b) be considered to be included in the description of each instrument describing a parcel on the plat by its identifying plat number, even if the common or community area interest is not explicitly stated in the instrument.
- (3) A parcel designated as common or community area on a plat before, on, or after May 12, 2015, may be modified in size and location if the modification:
- (a) is approved as part of a subdivision plat amendment by the local government;
 - (b) is approved by at least 75% of the voting interests in a homeowners association having an interest in the common or community area, if any;

- (c) is approved by at least 75% of the owners of lots, units, or parcels on the plat if there is no homeowners association having an interest in the common or community area, if any; and
 - (d) does not create a new buildable lot.
- (4) A parcel designated as common or community area on a plat before, on, or after May 12, 2015, may be modified in size without a subdivision plat amendment approval by the local government, if the modification:
- (a) is a lot line adjustment approved by at least 75% of the voting interests in a homeowners association having an interest in the common or community area, if any;
 - (b) is approved by at least 75% of the owners of lots, units, or parcels on the plat if there is no homeowners association having an interest in the common or community area, if any; and
 - (c) does not create a new buildable lot.

Amended by Chapter 327, 2015 General Session

10-9a-607 Dedication of streets and other public places.

- (1) A plat that is signed, dedicated, and acknowledged by each owner of record, and approved according to the procedures specified in this part, operates, when recorded, as a dedication of all streets and other public places, and vests the fee of those parcels of land in the municipality for the public for the uses named or intended in the plat.
- (2) The dedication established by this section does not impose liability upon the municipality for streets and other public places that are dedicated in this manner but are unimproved.

Amended by Chapter 381, 2010 General Session

10-9a-608 Vacating, altering, or amending a subdivision plat.

- (1)
 - (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a written petition with the land use authority to have some or all of the plat vacated or amended.
 - (b) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the vacation or amendment of the plat.
 - (c) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:
 - (i) any owner within the plat notifies the municipality of the owner's objection in writing within 10 days of mailed notification; or
 - (ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.
- (2) Unless a local ordinance provides otherwise, the public hearing requirement of Subsection (1)(c) does not apply and a land use authority may consider at a public meeting an owner's petition to vacate or amend a subdivision plat if:
 - (a) the petition seeks to:
 - (i) join two or more of the petitioner fee owner's contiguous lots;
 - (ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

- (iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the adjoining lots or parcels join in the petition, regardless of whether the lots or parcels are located in the same subdivision;
 - (iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or
 - (v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:
 - (A) owned by the petitioner; or
 - (B) designated as a common area; and
- (b) notice has been given to adjacent property owners in accordance with any applicable local ordinance.
- (3) Each request to vacate or amend a plat that contains a request to vacate or amend a public street, right-of-way, or easement is also subject to Section 10-9a-609.5.
- (4) Each petition to vacate or amend an entire plat or a portion of a plat shall include:
 - (a) the name and address of each owner of record of the land contained in the entire plat or on that portion of the plat described in the petition; and
 - (b) the signature of each owner described in Subsection (4)(a) who consents to the petition.
- (5)
 - (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or by a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).
 - (b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.
 - (c) If an exchange of title is approved under Subsection (5)(b):
 - (i) a notice of approval shall be recorded in the office of the county recorder which:
 - (A) is executed by each owner included in the exchange and by the land use authority;
 - (B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and
 - (C) recites the descriptions of both the original parcels and the parcels created by the exchange of title; and
 - (ii) a document of conveyance shall be recorded in the office of the county recorder.
 - (d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required in order to record a document conveying title to real property.
- (6)
 - (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).
 - (b) The surveyor preparing the amended plat shall certify that the surveyor:
 - (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
 - (ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and
 - (iii) has placed monuments as represented on the plat.
 - (c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.
 - (d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Amended by Chapter 136, 2014 General Session

10-9a-609 Land use authority approval of vacation or amendment of plat -- Recording the amended plat.

- (1) The land use authority may approve the vacation or amendment of a plat by signing an amended plat showing the vacation or amendment if the land use authority finds that:
 - (a) there is good cause for the vacation or amendment; and
 - (b) no public street, right-of-way, or easement has been vacated or amended.
- (2)
 - (a) The land use authority shall ensure that the amended plat showing the vacation or amendment is recorded in the office of the county recorder in which the land is located.
 - (b) If the amended plat is approved and recorded in accordance with this section, the recorded plat shall vacate, supersede, and replace any contrary provision in a previously recorded plat of the same land.
- (3)
 - (a) A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.
 - (b) The recorded vacating ordinance shall replace a previously recorded plat described in the vacating ordinance.
- (4) An amended plat may not be submitted to the county recorder for recording unless it is:
 - (a) signed by the land use authority; and
 - (b) signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.
- (5) A management committee may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.
- (6) A plat may be corrected as provided in Section 57-3-106.

Amended by Chapter 136, 2014 General Session

10-9a-609.5 Vacating a street, right-of-way, or easement.

- (1) A petition to vacate some or all of a public street, right-of-way, or easement shall include:
 - (a) the name and address of each owner of record of land that is:
 - (i) adjacent to the public street, right-of-way, or easement; or
 - (ii) accessed exclusively by or within 300 feet of the public street, right-of-way, or easement; and
 - (b) the signature of each owner under Subsection (1)(a) who consents to the vacation.
- (2) If a petition is submitted containing a request to vacate some or all of a street, right-of-way, or easement, the legislative body shall hold a public hearing in accordance with Section 10-9a-208 and determine whether:
 - (a) good cause exists for the vacation; and
 - (b) the public interest or any person will be materially injured by the proposed vacation.
- (3) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street, right-of-way, or easement if the legislative body finds that:
 - (a) good cause exists for the vacation; and
 - (b) neither the public interest nor any person will be materially injured by the vacation.

- (4) If the legislative body adopts an ordinance vacating some or all of a public street, right-of-way, or easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:
 - (a) a plat reflecting the vacation; or
 - (b) an ordinance described in Subsection (3).
- (5) The action of the legislative body vacating some or all of a street, right-of-way, or easement that has been dedicated to public use:
 - (a) operates to the extent to which it is vacated, upon the effective date of the recorded plat, as a revocation of the acceptance of and the relinquishment of the municipality's fee in the vacated street, right-of-way, or easement; and
 - (b) may not be construed to impair:
 - (i) any right-of-way or easement of any lot owner; or
 - (ii) the franchise rights of any public utility.

Amended by Chapter 381, 2010 General Session

10-9a-610 Restrictions for solar and other energy devices.

The land use authority may refuse to approve or renew any plat, subdivision plan, or dedication of any street or other ground, if deed restrictions, covenants, or similar binding agreements running with the land for the lots or parcels covered by the plat or subdivision prohibit or have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the plat or subdivision.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-611 Prohibited acts.

- (1)
 - (a) An owner of any land located in a subdivision who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded violates this part for each lot or parcel transferred or sold.
 - (b) The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from being a violation of Subsection (1)(a) or from the penalties or remedies provided in this chapter.
 - (c) Notwithstanding any other provision of this Subsection (1), the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this part:
 - (i) does not affect the validity of the instrument or other document; and
 - (ii) does not affect whether the property that is the subject of the instrument or other document complies with applicable municipal ordinances on land use and development.
- (2)
 - (a) A municipality may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.
 - (b) An action under this Subsection (2) may include an injunction, abatement, merger of title, or any other appropriate action or proceeding to prevent, enjoin, or abate the violation.
 - (c) A municipality need only establish the violation to obtain the injunction.

Renumbered and Amended by Chapter 254, 2005 General Session

Part 7

Appeal Authority and Variances

10-9a-701 Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.

- (1) Each municipality adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities to hear and decide:
 - (a) requests for variances from the terms of the land use ordinances;
 - (b) appeals from decisions applying the land use ordinances; and
 - (c) appeals from a fee charged in accordance with Section 10-9a-510.
- (2) As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge a land use authority's decision, in accordance with local ordinance.
- (3) An appeal authority:
 - (a) shall:
 - (i) act in a quasi-judicial manner; and
 - (ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and
 - (b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.
- (4) By ordinance, a municipality may:
 - (a) designate a separate appeal authority to hear requests for variances than the appeal authority it designates to hear appeals;
 - (b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;
 - (c) require an adversely affected party to present to an appeal authority every theory of relief that it can raise in district court;
 - (d) not require an adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of the adversely affected party's duty to exhaust administrative remedies; and
 - (e) provide that specified types of land use decisions may be appealed directly to the district court.
- (5) If the municipality establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:
 - (a) notify each of its members of any meeting or hearing of the board, body, or panel;
 - (b) provide each of its members with the same information and access to municipal resources as any other member;
 - (c) convene only if a quorum of its members is present; and
 - (d) act only upon the vote of a majority of its convened members.

Amended by Chapter 92, 2011 General Session

10-9a-702 Variances.

- (1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some

other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.

- (2)
 - (a) The appeal authority may grant a variance only if:
 - (i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
 - (ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - (iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - (iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - (v) the spirit of the land use ordinance is observed and substantial justice done.
 - (b)
 - (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:
 - (A) is located on or associated with the property for which the variance is sought; and
 - (B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
 - (ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
 - (c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:
 - (i) relate to the hardship complained of; and
 - (ii) deprive the property of privileges granted to other properties in the same zone.
- (3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- (4) Variances run with the land.
- (5) The appeal authority may not grant a use variance.
- (6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
 - (a) mitigate any harmful affects of the variance; or
 - (b) serve the purpose of the standard or requirement that is waived or modified.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-703 Appealing a land use authority's decision -- Panel of experts for appeals of geologic hazard decisions.

- (1) The applicant, a board or officer of the municipality, or any person adversely affected by the land use authority's decision administering or interpreting a land use ordinance may, within the time period provided by ordinance, appeal that decision to the appeal authority by alleging that there is error in any order, requirement, decision, or determination made by the land use authority in the administration or interpretation of the land use ordinance.
- (2)

- (a) An applicant who has appealed a decision of the land use authority administering or interpreting the municipality's geologic hazard ordinance may request the municipality to assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.
- (b) If an applicant makes a request under Subsection (2)(a), the municipality shall assemble the panel described in Subsection (2)(a) consisting of, unless otherwise agreed by the applicant and municipality:
 - (i) one expert designated by the municipality;
 - (ii) one expert designated by the applicant; and
 - (iii) one expert chosen jointly by the municipality's designated expert and the applicant's designated expert.
- (c) A member of the panel assembled by the municipality under Subsection (2)(b) may not be associated with the application that is the subject of the appeal.
- (d) The applicant shall pay:
 - (i) 1/2 of the cost of the panel; and
 - (ii) the municipality's published appeal fee.

Amended by Chapter 326, 2008 General Session

10-9a-704 Time to appeal.

- (1) The municipality shall enact an ordinance establishing a reasonable time of not less than 10 days to appeal to an appeal authority a written decision issued by a land use authority.
- (2) In the absence of an ordinance establishing a reasonable time to appeal, an adversely affected party shall have 10 calendar days to appeal to an appeal authority a written decision issued by a land use authority.

Amended by Chapter 240, 2006 General Session

10-9a-705 Burden of proof.

The appellant has the burden of proving that the land use authority erred.

Enacted by Chapter 254, 2005 General Session

10-9a-706 Due process.

- (1) Each appeal authority shall conduct each appeal and variance request as provided in local ordinance.
- (2) Each appeal authority shall respect the due process rights of each of the participants.

Enacted by Chapter 254, 2005 General Session

10-9a-707 Standard of review for appeals.

- (1) A municipality may, by ordinance, designate the standard of review for appeals of land use authority decisions.
- (2) If the municipality fails to designate a standard of review of factual matters, the appeal authority shall review the matter de novo.
- (3) The appeal authority shall determine the correctness of a decision of the land use authority in its interpretation and application of a land use ordinance.

- (4) Only those decisions in which a land use authority has applied a land use ordinance to a particular application, person, or parcel may be appealed to an appeal authority.

Enacted by Chapter 254, 2005 General Session

10-9a-708 Final decision.

- (1) A decision of an appeal authority takes effect on the date when the appeal authority issues a written decision, or as otherwise provided by ordinance.
- (2) A written decision, or other event as provided by ordinance, constitutes a final decision under Subsection 10-9a-801(2)(a) or a final action under Subsection 10-9a-801(4).

Amended by Chapter 240, 2006 General Session

Part 8

District Court Review

10-9a-801 No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.

- (1) No person may challenge in district court a municipality's land use decision made under this chapter, or under a regulation made under authority of this chapter, until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.
- (2)
 - (a) Any person adversely affected by a final decision made in the exercise of or in violation of the provisions of this chapter may file a petition for review of the decision with the district court within 30 days after the local land use decision is final.
 - (b)
 - (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:
 - (A) the arbitrator issues a final award; or
 - (B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3) (b) declining to arbitrate or to appoint an arbitrator.
 - (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.
 - (iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.
- (3)
 - (a) The courts shall:
 - (i) presume that a decision, ordinance, or regulation made under the authority of this chapter is valid; and
 - (ii) determine only whether or not the decision, ordinance, or regulation is arbitrary, capricious, or illegal.

- (b) A decision, ordinance, or regulation involving the exercise of legislative discretion is valid if it is reasonably debatable that the decision, ordinance, or regulation promotes the purposes of this chapter and is not otherwise illegal.
- (c) A final decision of a land use authority or an appeal authority is valid if the decision is supported by substantial evidence in the record and is not arbitrary, capricious, or illegal.
- (d) A determination of illegality requires a determination that the decision, ordinance, or regulation violates a law, statute, or ordinance in effect at the time the decision was made or the ordinance or regulation adopted.
- (4) The provisions of Subsection (2)(a) apply from the date on which the municipality takes final action on a land use application for any adversely affected third party, if the municipality conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending decision.
- (5) If the municipality has complied with Section 10-9a-205, a challenge to the enactment of a land use ordinance or general plan may not be filed with the district court more than 30 days after the enactment.
- (6) The petition is barred unless it is filed within 30 days after the appeal authority's decision is final.
- (7)
 - (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders, and, if available, a true and correct transcript of its proceedings.
 - (b) If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for purposes of this Subsection (7).
- (8)
 - (a)
 - (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.
 - (ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that it was improperly excluded.
 - (b) If there is no record, the court may call witnesses and take evidence.
- (9)
 - (a) The filing of a petition does not stay the decision of the land use authority or authority appeal authority, as the case may be.
 - (b)
 - (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, the aggrieved party may petition the appeal authority to stay its decision.
 - (ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed pending district court review if the appeal authority finds it to be in the best interest of the municipality.
 - (iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's decision.

Amended by Chapter 306, 2007 General Session
Amended by Chapter 363, 2007 General Session

10-9a-802 Enforcement.

- (1)
 - (a) A municipality or any adversely affected owner of real estate within the municipality in which violations of this chapter or ordinances enacted under the authority of this chapter occur or are about to occur may, in addition to other remedies provided by law, institute:
 - (i) injunctions, mandamus, abatement, or any other appropriate actions; or
 - (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
 - (b) A municipality need only establish the violation to obtain the injunction.
- (2)
 - (a) A municipality may enforce the municipality's ordinance by withholding a building permit.
 - (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within a municipality without approval of a building permit.
 - (c) A municipality may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.
 - (d) A municipality may not deny an applicant a building permit because the applicant has not completed an infrastructure improvement:
 - (i) that is not essential to meet the requirements for the issuance of a building permit under the building code and fire code; and
 - (ii) for which the municipality has accepted an infrastructure improvement assurance for infrastructure improvements for the development.

Amended by Chapter 327, 2015 General Session

10-9a-803 Penalties -- Notice.

- (1) The municipality may, by ordinance, establish civil penalties for violations of any of the provisions of this chapter or of any ordinances adopted under the authority of this chapter.
- (2) Violation of any of the provisions of this chapter or of any ordinances adopted under the authority of this chapter is punishable as a class C misdemeanor upon conviction either:
 - (a) as a class C misdemeanor; or
 - (b) by imposing the appropriate civil penalty adopted under the authority of this section.
- (3) Prior to imposing upon an owner of record a civil penalty established by ordinance under authority of this chapter, a municipality shall provide:
 - (a) written notice, by mail or hand delivery, of each ordinance violation to the address of the:
 - (i) owner of record on file in the office of the county recorder; or
 - (ii) person designated, in writing, by the owner of record as the owner's agent for the purpose of receiving notice of an ordinance violation;
 - (b) the owner of record a reasonable opportunity to cure a noticed violation; and
 - (c) a schedule of the civil penalties that may be imposed upon the expiration of a time certain.

Amended by Chapter 218, 2012 General Session

Chapter 11 Inspection and Cleaning

10-11-1 Abatement of weeds, garbage, refuse, and unsightly objects -- Selection of service provider.

- (1) A municipal legislative body may:
 - (a) designate and regulate the abatement of:
 - (i) the growth and spread of injurious and noxious weeds;
 - (ii) garbage and refuse;
 - (iii) a public nuisance; or
 - (iv) an illegal object or structure; and
 - (b) appoint a municipal inspector for the purpose of carrying out and in accordance with the provisions of this chapter.
- (2) A municipal legislative body may not:
 - (a) prohibit an owner or occupant of real property within the municipality's jurisdiction, including an owner or occupant who receives a notice in accordance with Section 10-11-2, from selecting a person, as defined in Section 10-1-104, to provide an abatement service for injurious and noxious weeds, garbage and refuse, a public nuisance, or an illegal object or structure; or
 - (b) require that an owner or occupant described in Subsection (2)(a) use the services of the municipal inspector or any assistance employed by the municipal inspector described in Section 10-11-3 to provide an abatement service described in Subsection (2)(a).
- (3) A municipality may require that an owner or occupant described in Subsection (2)(a) use the abatement services, as described in Section 10-11-3, of the municipal inspector or any assistance employed by the municipal inspector if:
 - (a) the municipality adopts an ordinance providing a reasonable period of time for an owner or occupant to abate the owner's or occupant's property after receiving a notice described in Section 10-11-2; and
 - (b) the owner or occupant fails to abate the property within the reasonable period of time and in accordance with the notice.

Amended by Chapter 144, 2011 General Session

Amended by Chapter 144, 2011 General Session, (Coordination Clause)

Amended by Chapter 172, 2011 General Session

10-11-2 Inspection of property -- Notice.

- (1)
 - (a) If a municipality adopts an ordinance describing the duties of a municipal inspector appointed under Section 10-11-1, the ordinance:
 - (i) may, subject to Subsection (1)(b), direct the inspector to examine and investigate real property for:
 - (A) the growth and spread of injurious and noxious weeds;
 - (B) garbage and refuse;
 - (C) a public nuisance; or
 - (D) an illegal object or structure; and
 - (ii) if an inspector conducts an examination and investigation under Subsection (1)(a), shall direct the inspector to deliver written notice of the examination and investigation in accordance with Subsection (2).

- (b) An ordinance described in Subsection (1)(a) may not direct an inspector or authorize a municipality to abate conditions solely associated with the interior of a structure, unless required for the demolition and removal of the structure.
- (2)
 - (a)
 - (i) The municipal inspector shall serve written notice to a property owner of record according to the records of the county recorder in accordance with Subsection (2)(b).
 - (ii) The municipal inspector may serve written notice in accordance with Subsection (2)(b) to a non-owner occupant of the property or another person responsible for the property who is not the owner of record, including a manager or agent of the owner, if:
 - (A) the property owner is not an occupant of the property; and
 - (B) the municipality in which the property is located has adopted an ordinance imposing a duty to maintain the property on an occupant who is not the property owner of record or a person other than the property owner of record who is responsible for the property.
 - (b) The municipal inspector may serve the written notice:
 - (i) in person or by mail to the property owner of record as described in Subsection (2)(a)(i), if mailed to the last-known address of the owner according to the records of the county recorder; or
 - (ii) in person or by mail to a non-owner occupant or another person responsible for the property who is not the owner of record as described in Subsection (2)(a)(ii), if mailed to the property address.
 - (c) In the written notice described in Subsection (2)(a), the municipal inspector shall:
 - (i) identify the property owner of record according to the records of the county recorder;
 - (ii) describe the property and the nature and results of the examination and investigation conducted in accordance with Subsection (1)(a); and
 - (iii) require the property owner, occupant, or, if applicable, another person responsible for the property to:
 - (A) eradicate or destroy and remove any identified item examined and investigated under Subsection (1)(a); and
 - (B) comply with Subsection (2)(c)(iii)(A) in a time period designated by the municipal inspector but no less than 10 days after the day on which notice is delivered in person or post-marked.
 - (d) For a notice of injurious and noxious weeds described in Subsection (2)(a), the municipal inspector is not required to make more than one notice for each annual season of weed growth for weeds growing on a property.
 - (e) The municipal inspector shall serve the notice required under Subsection (2)(a)(i) under penalty of perjury.

Repealed and Re-enacted by Chapter 172, 2011 General Session

10-11-3 Neglect of property owners -- Removal by municipality -- Costs of removal -- Notice -- File action or lien -- Property owner objection.

- (1)
 - (a) If an owner of, occupant of, or other person responsible for real property described in the notice delivered in accordance with Section 10-11-2 fails to comply with Section 10-11-2, a municipal inspector may:
 - (i) at the expense of the municipality, employ necessary assistance to enter the property and destroy or remove an item identified in a written notice described in Section 10-11-2; and

- (ii)
 - (A) prepare an itemized statement in accordance with Subsection (1)(b); and
 - (B) mail to the owner of record according to the records of the county recorder a copy of the statement demanding payment within 30 days after the day on which the statement is post-marked.
- (b) The statement described in Subsection (1)(a)(ii)(A) shall:
 - (i) include:
 - (A) the address of the property described in Subsection (1)(a);
 - (B) an itemized list of and demand for payment for all expenses, including administrative expenses, incurred by the municipality under Subsection (1)(a)(i); and
 - (C) the address of the municipal treasurer where payment may be made for the expenses; and
 - (ii) notify the property owner:
 - (A) that failure to pay the expenses described in Subsection (1)(b)(i)(B) may result in a lien on the property in accordance with Section 10-11-4;
 - (B) that the owner may file a written objection to all or part of the statement within 20 days after the day of the statement post-mark; and
 - (C) where the owner may file the objection, including the municipal office and address.
- (c) A statement mailed in accordance with Subsection (1)(a) is delivered when mailed by certified mail addressed to the property owner's of record last-known address according to the records of the county recorder.
- (d)
 - (i) A municipality may file a notice of a lien, including a copy of the statement described in Subsection (1)(a)(ii)(A) or a summary of the statement, in the records of the county recorder of the county in which the property is located.
 - (ii) If a municipality files a notice of a lien indicating that the municipality intends to certify the unpaid costs and expenses in accordance with Subsection (2)(a)(ii) and Section 10-11-4, the municipality shall file for record in the county recorder's office a release of the lien after all amounts owing are paid.
- (2)
 - (a) If an owner fails to file a timely written objection as described in Subsection (1)(b)(ii)(B) or to pay the amount set forth in the statement under Subsection (1)(b)(i)(B), the municipality may:
 - (i) file an action in district court; or
 - (ii) certify the past due costs and expenses to the county treasurer of the county in which the property is located in accordance with Section 10-11-4.
 - (b) If a municipality pursues collection of the costs in accordance with Subsection (2)(a)(i) or (4)(a), the municipality may:
 - (i) sue for and receive judgment for all removal and destruction costs, including administrative costs, and reasonable attorney fees, interest, and court costs; and
 - (ii) execute on the judgment in the manner provided by law.
- (3)
 - (a) If a property owner files an objection in accordance with Subsection (1)(b)(ii), the municipality shall:
 - (i) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act; and
 - (ii) mail or deliver notice of the hearing date and time to the property owner.
 - (b) At the hearing described in Subsection (3)(a)(i), the municipality shall review and determine the actual cost of abatement, if any, incurred under Subsection (1)(a)(i).

- (c) The property owner shall pay any actual cost due after a decision by the municipality at the hearing described in Subsection (3)(a)(i) to the municipal treasurer within 30 days after the day on which the hearing is held.
- (4) If the property owner fails to pay in accordance with Subsection (3)(c), the municipality may:
 - (a) file an action in district court for the actual cost determined under Subsection (3)(b); or
 - (b) certify the past due costs and expenses to the county treasurer of the county in which the property is located in accordance with Section 10-11-4.
- (5) This section does not affect or limit:
 - (a) a municipal governing body's power to pass an ordinance as described in Section 10-3-702; or
 - (b) a criminal or civil penalty imposed by a municipality in accordance with Section 10-3-703.

Amended by Chapter 172, 2011 General Session

10-11-4 Costs of removal to be included in tax notice.

- (1) A municipality may certify to the treasurer of the county in which a property described in Section 10-11-3 is located, the unpaid costs and expenses that the municipality has incurred under Section 10-11-3 with regard to the property.
- (2) If the municipality certifies with the treasurer of the county any costs or expenses incurred for a property under Section 10-11-3, the treasurer shall enter the amount of the costs and expenses on the assessment and tax rolls of the county in the column prepared for that purpose.
- (3) If current tax notices have been mailed, the treasurer of the county may carry the costs and expenses described in Subsection (2) on the assessment and tax rolls to the following year.
- (4) After entry by the treasurer of the county, the amount entered:
 - (a) shall have the force and effect of a valid judgment of the district court;
 - (b) is a lien upon the property; and
 - (c) shall be collected by the treasurer of the county in which the property is located at the time of the payment of general taxes.
- (5) Upon payment of the costs and expenses:
 - (a) the judgement is satisfied;
 - (b) the lien is released from the property; and
 - (c) receipt shall be acknowledged upon the general tax receipt issued by the treasurer.
- (6) This section does not apply to any public building, public structure, or public improvement.

Amended by Chapter 172, 2011 General Session

Chapter 15

Pedestrian Mall Law of Utah

10-15-1 Short title.

This act may be cited as the "Pedestrian Mall Law of Utah."

Enacted by Chapter 2, 1966 Special Session 2

Enacted by Chapter 2, 1966 Special Session 2

10-15-2 Legislative findings and purposes.

The Legislature hereby finds and declares that in certain areas in municipalities within the state, and particularly in retail shopping areas thereof, there is need to separate pedestrian travel from vehicular travel and that such separation is necessary to protect the public safety or otherwise to serve the public interest and convenience. The Legislature further finds and declares that such objectives can, in part, be accomplished by the establishment of pedestrian malls pursuant to this act.

Enacted by Chapter 2, 1966 Special Session 2

Enacted by Chapter 2, 1966 Special Session 2

10-15-3 Definitions.

As used in this chapter:

- (1)
 - (a) "Intersection street" means any street which meets or crosses a pedestrian mall at a mall intersection but includes only those portions thereof on either side of the mall intersection which lie between the mall intersection and the first intersection of the intersecting street with a public street or highway open to vehicular traffic. If any portion of a pedestrian mall terminates on a street at a place thereon other than at a place of intersection with a public street or highway open to vehicular traffic, such intersecting street shall also include that portion of any street which lies between such place of termination and the first intersection of such street with the public street or highway open to vehicular traffic.
 - (b) "Intersecting street" also includes any other street or portion of a street which the legislative body declares to be such by resolution.
- (2) "Legislative body" means the legislative body of the municipality.
- (3) "Mall intersection" means any intersection of a street constituting a part of a pedestrian mall with any street which intersection is itself part of a pedestrian mall.
- (4) "Municipality" includes every city or town within this state.
- (5) "Pedestrian mall" means one or more streets or portions thereof, on which vehicular traffic is, or is to be, restricted in whole or in part and which is, or is to be, used exclusively or primarily for pedestrian travel.
- (6) "Street" means any public road, street, highway, alley, lane, court, way, or place of any nature open to the use of the public, excluding state highways.

Amended by Chapter 10, 1997 General Session

10-15-4 Powers of legislative body of municipality.

The legislative body of the municipalities of this state shall have the power:

- (1) to establish pedestrian malls;
- (2) to prohibit, in whole or in part, vehicular traffic on a pedestrian mall;
- (3) to pay from the general funds of the municipality, or from other available money, or from the proceeds of assessments levied on land benefited by the establishment of a pedestrian mall, the damages, if any, allowed or awarded to any property owner by reason of the establishment of the pedestrian mall;
- (4) to acquire, construct, and maintain on the municipality's streets which are established as a pedestrian mall, improvements of any kind or nature necessary or convenient to the operation of such streets as a pedestrian mall, including paving, sidewalks, curbs, gutters, sewers, drainage works, lighting facilities, fire protection facilities, flood protection facilities, water distribution facilities, vehicular parking areas, retaining walls, landscaping, tree planting,

statuaries, fountains, decorative structures, benches, rest rooms, child care facilities, display facilities, information booths, public assembly facilities, and other structures, works or improvements necessary or convenient to serve members of the public using such pedestrian malls, including the reconstruction or relocation of existing municipally owned works, improvements, or facilities on such municipal streets; which foregoing changes or any portions thereof, are referred to in this act as "improvements";

- (5) to pay from the general funds of the municipality or other available money, or from the proceeds of assessments levied on property benefited by any such improvements, or from the proceeds of special improvement warrants or bonds, the whole or any portion of the costs of acquisition, construction, and maintenance of such improvements in accordance with the provisions of Title 11, Chapter 42, Assessment Area Act, relating to special improvement assessments; and
- (6) to do any and all other acts or things necessary or convenient for the accomplishment of the purposes of this chapter.

Amended by Chapter 378, 2010 General Session

10-15-5 Powers of acquisition and improvement.

The legislative body of the municipalities shall also have the power to acquire by gift, purchase, eminent domain, or otherwise, land, real property or rights of way which shall become part of the municipal street established as a pedestrian mall, or which shall otherwise be used by the municipality as a part of, or for purposes connected with, a pedestrian mall, and such lands, real property or rights of way may be improved in the same manner as municipal streets may be improved. The legislative body shall also have the power to make such improvements on mall intersections and intersecting streets or upon facilities acquired for parking and other related purposes where such improvements are necessary or convenient to the operation of the mall. The acquisitions and improvements authorized by this section shall be deemed "improvements."

Enacted by Chapter 2, 1966 Special Session 2

Enacted by Chapter 2, 1966 Special Session 2

10-15-6 Public hearing -- Finance requirements.

The designation of any street as a "mall" shall be by ordinance passed and published after full investigation and ample public hearing into the necessity and advisability of the creation of a mall. The ordinance shall designate the manner in which the project is to be financed, and, if financed by levy of special taxes or special improvement warrants or bonds, shall be in accordance with the provisions of Title 11, Chapter 42, Assessment Area Act.

Amended by Chapter 360, 2008 General Session

Chapter 18

Municipal Cable Television and Public Telecommunications Services Act

Part 1

General Provisions

10-18-101 Title -- Policy statement.

- (1) This chapter is known as the "Municipal Cable Television and Public Telecommunications Services Act."
- (2) The Legislature finds that it is the policy of this state to:
 - (a) ensure that cable television services and public telecommunications services are provided through fair competition consistent with the federal Telecommunications Act of 1996, Pub. L. 104-104, in order to provide the widest possible diversity of information and news sources to the general public;
 - (b) advance the exercise of rights under the First Amendment of the Constitution of the United States;
 - (c) enhance the development and widespread use of technological advances in providing cable television services and public telecommunications services;
 - (d) encourage improved customer service of cable television services and public telecommunications services at competitive rates;
 - (e) ensure that cable television services and public telecommunications services are each provided within a consistent, comprehensive, and nondiscriminatory federal, state, and local government framework; and
 - (f) ensure that when a municipality provides to its inhabitants cable television services, public telecommunications services, or both, and competes with private providers whose activities are regulated by the municipality, the municipality does not discriminate against the competing providers of the same services.

Enacted by Chapter 83, 2001 General Session

10-18-102 Definitions.

As used in this chapter:

- (1) "Cable television service" means:
 - (a) the one-way transmission to subscribers of:
 - (i) video programming; or
 - (ii) other programming service; and
 - (b) subscriber interaction, if any, that is required for the selection or use of:
 - (i) the video programming; or
 - (ii) other programming service.
- (2) "Capital costs" means all costs of providing a service that are capitalized in accordance with generally accepted accounting principles.
- (3) "Cross subsidize" means to pay a cost included in the direct costs or indirect costs of providing a service that is not accounted for in the full cost of accounting of providing the service.
- (4) "Direct costs" means those expenses of a municipality that:
 - (a) are directly attributable to providing:
 - (i) a cable television service; or
 - (ii) a public telecommunications service; and
 - (b) would be eliminated if the service described in Subsection (4)(a) were not provided by the municipality.
- (5) "Feasibility consultant" means an individual or entity with expertise in the processes and economics of providing:
 - (a) cable television service; and
 - (b) public telecommunications service.
- (6)

- (a) "Full-cost accounting" means the accounting of all costs incurred by a municipality in providing:
 - (i) a cable television service; or
 - (ii) a public telecommunications service.
- (b) The costs included in a full-cost accounting include all:
 - (i) capital costs;
 - (ii) direct costs; and
 - (iii) indirect costs.
- (7)
 - (a) "Indirect costs" means any costs:
 - (i) identified with two or more services or other functions; and
 - (ii) that are not directly identified with a single service or function.
 - (b) "Indirect costs" may include cost factors for:
 - (i) administration;
 - (ii) accounting;
 - (iii) personnel;
 - (iv) purchasing;
 - (v) legal support; and
 - (vi) other staff or departmental support.
- (8) "Private provider" means a person that:
 - (a) provides:
 - (i) cable television services; or
 - (ii) public telecommunications services; and
 - (b) is a private entity.
- (9) "Public telecommunications service" means the two-way transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means offered to the public generally.
- (10) "Subscribers" means a person that lawfully receives:
 - (a) cable television services; or
 - (b) public telecommunications services.

Enacted by Chapter 83, 2001 General Session

10-18-103 Antitrust immunity.

- (1) When a municipality is offering or providing a cable television service or public telecommunications service, the immunity from antitrust liability afforded to political subdivisions of the state under Section 76-10-3109 does not apply to the municipality providing those services.
- (2) A municipality that provides a cable television service or a public telecommunications service is subject to applicable antitrust liabilities under the federal Local Government Antitrust Act of 1984, 15 U.S.C. Secs. 34 to 36.

Amended by Chapter 187, 2013 General Session

10-18-104 Application to existing contracts.

- (1)

- (a) If before the sooner of March 1 or the effective date of the chapter, the legislative body of a municipality authorized the municipality to offer or provide cable television services or public telecommunications services, each authorized service:
 - (i) is exempt from Part 2, Conditions for Providing Services; and
 - (ii) is subject to Part 3, Operational Requirements and Limitations.
 - (b) The exemption described in Subsection (1)(a)(i) may not apply to any cable television service or public telecommunications service authorized by the legislative body of a municipality on or after the sooner of March 1 or the effective date of this chapter.
- (2) This chapter does not:
- (a) invalidate any contract entered into by a municipality before the sooner of March 1 or the effective date of this chapter:
 - (i) for the design, construction, equipping, operation, or maintenance of facilities used or to be used by the municipality, or by a private provider under a contract with the municipality for the purpose of providing:
 - (A) cable television services; or
 - (B) public telecommunications services;
 - (ii) with a private provider for the use of the facilities described in Subsection (2)(a)(i) in connection with the private provider offering:
 - (A) cable television services; or
 - (B) public telecommunications services;
 - (iii) with a subscriber for providing:
 - (A) a cable television service; or
 - (B) a public telecommunications service; or
 - (iv) to obtain or secure financing for the acquisition or operation of the municipality's facilities or equipment used in connection with providing:
 - (A) a cable television service; or
 - (B) a public telecommunications service; or
 - (b) impair any security interest granted by a municipality as collateral for the municipality's obligations under a contract described in Subsection (2)(a).
- (3)
- (a) A municipality meeting the one or more of the following conditions is exempt from this chapter as provided in Subsection (3)(b):
 - (i) a municipality that adopts or enacts a bond resolution on or before January 1, 2001, to fund facilities or equipment that the municipality uses to provide:
 - (A) cable television services; or
 - (B) public telecommunications services; or
 - (ii) a municipality that has operated for at least three years consecutively before the sooner of March 1 or the effective date of this chapter:
 - (A) a cable television service; or
 - (B) a public telecommunications service.
 - (b) A municipality described in Subsection (3)(a) is exempt from this chapter except for:
 - (i) Subsection 10-18-303(4);
 - (ii) Subsection 10-18-303(7);
 - (iii) Subsection 10-18-303(9);
 - (iv) Section 10-18-304; and
 - (v) Section 10-18-305.

- (4) For the time period beginning on the effective date of this chapter and ending on December 31, 2001, a municipality that operated a cable television service as of January 1, 2001, is exempt from Subsection 10-18-301(1)(d).

Amended by Chapter 189, 2014 General Session

10-18-105 Scope of chapter.

- (1) Nothing in this chapter authorizes any county or other political subdivision of this state to:
- (a) provide:
 - (i) a cable television service; or
 - (ii) a public telecommunications service; or
 - (b) purchase, lease, construct, maintain, or operate a facility for the purpose of providing:
 - (i) a cable television service; or
 - (ii) a public telecommunications service.
- (2) Except as provided in Subsection (3), this chapter does not apply to a municipality purchasing, leasing, constructing, or equipping facilities:
- (a) that are designed to provide services within the municipality; and
 - (b) that the municipality:
 - (i) uses for internal municipal government purposes; or
 - (ii) by written contract, leases, sells capacity in, or grants other similar rights to a private provider to use the facilities in connection with a private provider offering:
 - (A) cable television services; or
 - (B) public telecommunications services.
- (3)
- (a) As used in this Subsection (3), "municipal entity" means:
 - (i) a municipality; or
 - (ii) an entity created pursuant to an agreement:
 - (A) under Title 11, Chapter 13, Interlocal Cooperation Act; and
 - (B) to which a municipality is a party.
 - (b) Notwithstanding Subsection (2), a municipal entity shall comply with Subsection (3)(c) if the municipal entity purchases, leases, constructs, or equips facilities that the municipal entity by written contract leases, sells capacity in, or grants other similar rights to a private provider to use the facilities in connection with a private provider offering:
 - (i) cable television services; or
 - (ii) public telecommunications services.
 - (c) A municipal entity described in Subsection (3)(b) shall, with respect to an action described in Subsection (3)(b), comply with the obligations imposed on a municipality pursuant to:
 - (i) Section 10-18-302; and
 - (ii) Subsections 10-18-303(3) and (4).

Amended by Chapter 270, 2004 General Session

10-18-106 Severability.

If any provision of this chapter or the application of any provision of this chapter is found invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

Enacted by Chapter 83, 2001 General Session

Part 2

Conditions for Providing Services

10-18-201 Limitations on providing a cable television and public telecommunications services.

- (1) Except as provided in this chapter, a municipality may not:
 - (a) provide to one or more subscribers:
 - (i) a cable television service; or
 - (ii) a public telecommunications service; or
 - (b) for the purpose of providing a cable television service or a public telecommunications service to one or more subscribers, purchase, lease, construct, maintain, or operate any facility.
- (2) For purposes of this chapter, a municipality provides a cable television service or public telecommunications service if the municipality provides the service:
 - (a) directly or indirectly, including through an authority or instrumentality:
 - (i) acting on behalf of the municipality; or
 - (ii) for the benefit of the municipality;
 - (b) by itself;
 - (c) through:
 - (i) a partnership; or
 - (ii) joint venture; or
 - (d) by contract, resale, or otherwise.

Enacted by Chapter 83, 2001 General Session

10-18-202 Required steps before a municipality may provide cable television or public telecommunications services.

Before a municipality may engage or offer to engage in an activity described in Subsection 10-18-201(1), the legislative body of the municipality shall:

- (1) hold a preliminary public hearing;
- (2) if the legislative body elects to proceed after holding the preliminary public hearing required by Subsection (1), approve the hiring of a feasibility consultant to conduct a feasibility study in accordance with Section 10-18-203;
- (3) determine whether under the feasibility study conducted under Section 10-18-203, the average annual revenues under Subsection 10-18-203(2)(f) exceed the average annual costs under Subsection 10-18-203(2)(e) by at least the amount necessary to meet the bond obligations of any bonds issued to fund the proposed cable television services or public telecommunications services:
 - (a) based on the feasibility study's analysis:
 - (i) for the first year of the study; and
 - (ii) the five-year projection; and
 - (b) separately stated with respect to:
 - (i) the proposed cable television services; or
 - (ii) the proposed public telecommunications services;
- (4) if the conditions of Subsection (3) are met, hold the public hearings required by Section 10-18-203; and

- (5) after holding the public hearings required by Section 10-18-203, if the legislative body of the municipality elects to proceed, adopt by resolution the feasibility study.

Enacted by Chapter 83, 2001 General Session

10-18-203 Feasibility study on providing cable television or public telecommunications services -- Public hearings.

- (1) If a feasibility consultant is hired under Section 10-18-202, the legislative body of the municipality shall require the feasibility consultant to:
- (a) complete the feasibility study in accordance with this section;
 - (b) submit to the legislative body by no later than 180 days from the date the feasibility consultant is hired to conduct the feasibility study:
 - (i) the full written results of the feasibility study; and
 - (ii) a summary of the results that is no longer than one page in length; and
 - (c) attend the public hearings described in Subsection (4) to:
 - (i) present the feasibility study results; and
 - (ii) respond to questions from the public.
- (2) The feasibility study described in Subsection (1) shall at a minimum consider:
- (a)
 - (i) if the municipality is proposing to provide cable television services to subscribers, whether the municipality providing cable television services in the manner proposed by the municipality will hinder or advance competition for cable television services in the municipality; or
 - (ii) if the municipality is proposing to provide public telecommunications services to subscribers, whether the municipality providing public telecommunications services in the manner proposed by the municipality will hinder or advance competition for public telecommunications services in the municipality;
 - (b) whether but for the municipality any person would provide the proposed:
 - (i) cable television services; or
 - (ii) public telecommunications services;
 - (c) the fiscal impact on the municipality of:
 - (i) the capital investment in facilities that will be used to provide the proposed:
 - (A) cable television services; or
 - (B) public telecommunications services; and
 - (ii) the expenditure of funds for labor, financing, and administering the proposed:
 - (A) cable television services; or
 - (B) public telecommunications services;
 - (d) the projected growth in demand in the municipality for the proposed:
 - (i) cable television services; or
 - (ii) public telecommunications services;
 - (e) the projections at the time of the feasibility study and for the next five years, of a full-cost accounting for a municipality to purchase, lease, construct, maintain, or operate the facilities necessary to provide the proposed:
 - (i) cable television services; or
 - (ii) public telecommunications services; and
 - (f) the projections at the time of the feasibility study and for the next five years of the revenues to be generated from the proposed:
 - (i) cable television services; or

- (ii) public telecommunications services.
- (3) For purposes of the financial projections required under Subsections (2)(e) and (f), the feasibility consultant shall assume that the municipality will price the proposed cable television services or public telecommunications services consistent with Subsection 10-18-303(5).
- (4) If the results of the feasibility study satisfy the revenue requirement of Subsection 10-18-202(3), the legislative body, at the next regular meeting after the legislative body receives the results of the feasibility study, shall schedule at least two public hearings to be held:
 - (a) within 60 days of the meeting at which the public hearings are scheduled;
 - (b) at least seven days apart; and
 - (c) for the purpose of allowing:
 - (i) the feasibility consultant to present the results of the feasibility study; and
 - (ii) the public to:
 - (A) become informed about the feasibility study results; and
 - (B) ask questions of the feasibility consultant about the results of the feasibility study.
- (5)
 - (a) Except as provided in Subsection (5)(b), the municipality shall publish notice of the public hearings required under Subsection (4):
 - (i) at least once a week for three consecutive weeks in a newspaper of general circulation in the municipality and at least three days before the first public hearing required under Subsection (4); and
 - (ii) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks, at least three days before the first public hearing required under Subsection (4).
 - (b)
 - (i) In accordance with Subsection (5)(a)(i), if there is no newspaper of general circulation in the municipality, for each 1,000 residents, the municipality shall post at least one notice of the hearings in a conspicuous place within the municipality that is likely to give notice of the hearings to the greatest number of residents of the municipality.
 - (ii) The municipality shall post the notices at least seven days before the first public hearing required under Subsection (4) is held.

Amended by Chapter 90, 2010 General Session

10-18-204 Vote permissible -- Referendum.

- (1)
 - (a) A legislative body by a majority vote may call an election on whether or not the municipality shall provide the proposed:
 - (i) cable television services; or
 - (ii) public telecommunications services.
 - (b) If under Subsection (1)(a) the legislative body calls an election, the election shall be held:
 - (i)
 - (A) at the next municipal general election; or
 - (B) as provided in Subsection 20A-1-203(1), at a local special election the purpose of which is authorized by this section; and
 - (ii) in accordance with Title 20A, Election Code, except as provided in this section.
 - (c) The notice of the election shall include with any other information required by law:
 - (i) a summary of the cable television services or public telecommunications services that the legislative body of the municipality proposes to provide to subscribers residing within the boundaries of the municipality;

- (ii) the feasibility study summary under Section 10-18-203;
- (iii) a statement that a full copy of the feasibility study is available for inspection and copying;
and
- (iv) the location in the municipality where the feasibility study may be inspected or copied.
- (d) The ballot at the election shall pose the question substantially as follows: Shall the [name of the municipality] provide [cable television service or public telecommunications service] to the inhabitants of the [municipality].
- (e) The ballot proposition may not take effect until submitted to the electors and approved by the majority of those voting on the ballot.
- (2) In accordance with Title 20A, Chapter 7, Issues Submitted to the Voters, a municipality legislative body's action to have the municipality provide cable television services or public telecommunications services is subject to local referenda.

Enacted by Chapter 83, 2001 General Session

Part 3

Operational Requirements and Limitations

10-18-301 Enterprise funds for cable television or public telecommunications services.

- (1) A municipality that provides a cable television service or a public telecommunications service under this chapter:
 - (a) shall establish an enterprise fund to account for the municipality's operations of a cable television service or public telecommunications service;
 - (b) for accounting purposes only, may account for its cable television services and its public telecommunications services in a single enterprise fund under Chapter 6, Uniform Fiscal Procedures Act for Utah Cities;
 - (c) shall, consistent with the requirements of Section 10-6-135, adopt separate operating and capital budgets for the municipality's:
 - (i) cable television services; and
 - (ii) public telecommunications services;
 - (d) may not transfer any appropriation or other balance in any enterprise fund established by the municipality under this section to another enterprise fund; and
 - (e) may not transfer any appropriation or other balance in any other enterprise fund established by the municipality under Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, to any enterprise fund established by the municipality under this section.
- (2) The restrictions on transfers described in Subsections (1)(d) and (e) do not apply to transfers made by a municipality between other enterprise funds established by the municipality.

Enacted by Chapter 83, 2001 General Session

10-18-302 Bonding authority.

- (1) In accordance with Title 11, Chapter 14, Local Government Bonding Act, the legislative body of a municipality may by resolution determine to issue one or more revenue bonds or general obligation bonds to finance the capital costs for facilities necessary to provide to subscribers:
 - (a) a cable television service; or
 - (b) a public telecommunications service.

- (2) The resolution described in Subsection (1) shall:
 - (a) describe the purpose for which the indebtedness is to be created; and
 - (b) specify the dollar amount of the one or more bonds proposed to be issued.
- (3)
 - (a) A revenue bond issued under this section shall be secured and paid for:
 - (i) from the revenues generated by the municipality from providing:
 - (A) cable television services with respect to revenue bonds issued to finance facilities for the municipality's cable television services; and
 - (B) public telecommunications services with respect to revenue bonds issued to finance facilities for the municipality's public telecommunications services; and
 - (ii) notwithstanding Subsection (3)(b) and Subsection 10-18-303(3)(a), from revenues generated under Title 59, Chapter 12, Sales and Use Tax Act, if:
 - (A) notwithstanding Subsection 11-14-201(3) and except as provided in Subsections (4) and (5), the revenue bond is approved by the registered voters in an election held:
 - (I) except as provided in Subsection (3)(a)(ii)(A)(II), pursuant to the provisions of Title 11, Chapter 14, Local Government Bonding Act, that govern bond elections; and
 - (II) notwithstanding Subsection 11-14-203(2), at a regular general election;
 - (B) the revenues described in this Subsection (3)(a)(ii) are pledged as security for the revenue bond; and
 - (C) the municipality or municipalities annually appropriate the revenues described in this Subsection (3)(a)(ii) to secure and pay the revenue bond issued under this section.
 - (b) Except as provided in Subsection (3)(a)(ii), a municipality may not pay the origination, financing, or other carrying costs associated with the one or more revenue bonds issued under this section from the town or city, respectively, general funds or other enterprise funds of the municipality.
- (4)
 - (a) As used in this Subsection (4), "municipal entity" means an entity created pursuant to an agreement:
 - (i) under Title 11, Chapter 13, Interlocal Cooperation Act; and
 - (ii) to which a municipality is a party.
 - (b) The requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality or municipal entity that issues revenue bonds, or to a municipality that is a member of a municipal entity that issues revenue bonds, if:
 - (i) on or before March 2, 2004, the municipality that is issuing revenue bonds or that is a member of a municipal entity that is issuing revenue bonds has published the first notice described in Subsection (4)(b)(iii);
 - (ii) on or before April 15, 2004, the municipality that is issuing revenue bonds or that is a member of a municipal entity that is issuing revenue bonds makes the decision to pledge the revenues described in Subsection (3)(a)(ii) as security for the revenue bonds described in this Subsection (4)(b)(ii);
 - (iii) the municipality that is issuing the revenue bonds or the municipality that is a member of the municipal entity that is issuing the revenue bonds has:
 - (A) held a public hearing for which public notice was given by publication of the notice:
 - (I) in a newspaper published in the municipality or in a newspaper of general circulation within the municipality for two consecutive weeks, with the first publication being not less than 14 days before the public hearing; and
 - (II) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the public hearing; and

- (B) the notice identifies:
 - (I) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;
 - (II) the purpose for the bonds to be issued;
 - (III) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will be pledged in any fiscal year;
 - (IV) the maximum number of years that the pledge will be in effect; and
 - (V) the time, place, and location for the public hearing;
 - (iv) the municipal entity that issues revenue bonds:
 - (A) adopts a final financing plan; and
 - (B) in accordance with Title 63G, Chapter 2, Government Records Access and Management Act, makes available to the public at the time the municipal entity adopts the final financing plan:
 - (I) the final financing plan; and
 - (II) all contracts entered into by the municipal entity, except as protected by Title 63G, Chapter 2, Government Records Access and Management Act;
 - (v) any municipality that is a member of a municipal entity described in Subsection (4)(b)(iv):
 - (A) not less than 30 calendar days after the municipal entity complies with Subsection (4)(b)(iv)(B), holds a final public hearing;
 - (B) provides notice, at the time the municipality schedules the final public hearing, to any person who has provided to the municipality a written request for notice; and
 - (C) makes all reasonable efforts to provide fair opportunity for oral testimony by all interested parties; and
 - (vi) except with respect to a municipality that issued bonds prior to March 1, 2004, not more than 50% of the average annual debt service of all revenue bonds described in this section to provide service throughout the municipality or municipal entity may be paid from the revenues described in Subsection (3)(a)(ii).
- (5) On or after July 1, 2007, the requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality that issues revenue bonds if:
- (a) the municipality that is issuing the revenue bonds has:
 - (i) held a public hearing for which public notice was given by publication of the notice:
 - (A) in a newspaper published in the municipality or in a newspaper of general circulation within the municipality for two consecutive weeks, with the first publication being not less than 14 days before the public hearing; and
 - (B) on the Utah Public Notice Website created in Section 63F-1-701, for 14 days before the public hearing; and
 - (ii) the notice identifies:
 - (A) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;
 - (B) the purpose for the bonds to be issued;
 - (C) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will be pledged in any fiscal year;
 - (D) the maximum number of years that the pledge will be in effect; and
 - (E) the time, place, and location for the public hearing; and
 - (b) except with respect to a municipality that issued bonds prior to March 1, 2004, not more than 50% of the average annual debt service of all revenue bonds described in this section to provide service throughout the municipality or municipal entity may be paid from the revenues described in Subsection (3)(a)(ii).
- (6) A municipality that issues bonds pursuant to this section may not make or grant any undue or unreasonable preference or advantage to itself or to any private provider of:

- (a) cable television services; or
- (b) public telecommunications services.

Amended by Chapter 176, 2014 General Session

10-18-303 General operating limitations.

A municipality that provides a cable television service or a public telecommunications service under this chapter is subject to the operating limitations of this section.

- (1) A municipality that provides a cable television service shall comply with:
 - (a) the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq.; and
 - (b) the regulations issued by the Federal Communications Commission under the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq.
- (2) A municipality that provides a public telecommunications service shall comply with:
 - (a) the Telecommunications Act of 1996, Pub. L. 104-104;
 - (b) the regulations issued by the Federal Communications Commission under the Telecommunications Act of 1996, Pub. L. 104-104;
 - (c) Section 54-8b-2.2 relating to:
 - (i) the interconnection of essential facilities; and
 - (ii) the purchase and sale of essential services; and
 - (d) the rules made by the Public Service Commission of Utah under Section 54-8b-2.2.
- (3) A municipality may not cross subsidize its cable television services or its public telecommunications services with:
 - (a) tax dollars;
 - (b) income from other municipal or utility services;
 - (c) below-market rate loans from the municipality; or
 - (d) any other means.
- (4)
 - (a) A municipality may not make or grant any undue or unreasonable preference or advantage to itself or to any private provider of:
 - (i) cable television services; or
 - (ii) public telecommunications services.
 - (b) A municipality shall apply without discrimination as to itself and to any private provider the municipality's ordinances, rules, and policies, including those relating to:
 - (i) obligation to serve;
 - (ii) access to public rights of way;
 - (iii) permitting;
 - (iv) performance bonding;
 - (v) reporting; and
 - (vi) quality of service.
 - (c) Subsections (4)(a) and (b) do not supersede the exception for a rural telephone company in Section 251 of the Telecommunications Act of 1996, Pub. L. 104-104.
- (5) In calculating the rates charged by a municipality for a cable television service or a public telecommunications service, the municipality:
 - (a) shall include within its rates an amount equal to all taxes, fees, and other assessments that would be applicable to a similarly situated private provider of the same services, including:
 - (i) federal, state, and local taxes;
 - (ii) franchise fees;
 - (iii) permit fees;

- (iv) pole attachment fees; and
 - (v) fees similar to those described in Subsections (5)(a)(i) through (iv); and
- (b) may not price any cable television service or public telecommunications service at a level that is less than the sum of:
 - (i) the actual direct costs of providing the service;
 - (ii) the actual indirect costs of providing the service; and
 - (iii) the amount determined under Subsection (5)(a).
- (6)
 - (a) A municipality that provides cable television services or public telecommunications services shall establish and maintain a comprehensive price list of all cable television services or public telecommunications services offered by the municipality.
 - (b) The price list required by Subsection (6)(a) shall:
 - (i) include all terms and conditions relating to the municipality providing each cable television service or public telecommunications service offered by the municipality;
 - (ii)
 - (A) be published in a newspaper having general circulation in the municipality; and
 - (B) be published in accordance with Section 45-1-101; and
 - (iii) be available for inspection:
 - (A) at a designated office of the municipality; and
 - (B) during normal business hours.
 - (c) At least five days before the date a change to a municipality's price list becomes effective, the municipality shall:
 - (i) notify the following of the change:
 - (A) all subscribers to the services for which the price list is being changed; and
 - (B) any other persons requesting notification of any changes to the municipality's price list; and
 - (ii)
 - (A) publish notice in a newspaper of general circulation in the municipality; and
 - (B) publish notice in accordance with Section 45-1-101.
 - (d) In accordance with Subsection (6)(c)(ii)(A), if there is no newspaper of general circulation in the municipality, the municipality shall publish the notice required by this Subsection (6) in a newspaper of general circulation that is nearest the municipality.
 - (e) A municipality may not offer a cable television service or a public telecommunications service except in accordance with the prices, terms, and conditions set forth in the municipality's price list.
- (7) A municipality may not offer to provide or provide cable television services or public telecommunications services to a subscriber that does not reside within the geographic boundaries of the municipality.
- (8)
 - (a) A municipality shall keep accurate books and records of the municipality's:
 - (i) cable television services; and
 - (ii) public telecommunications services.
 - (b) The books and records required to be kept under Subsection (8)(a) are subject to legislative audit to verify the municipality's compliance with the requirements of this chapter including:
 - (i) pricing;
 - (ii) recordkeeping; and
 - (iii) antidiscrimination.

- (9) A municipality may not receive distributions from the Universal Public Telecommunications Service Support Fund established in Section 54-8b-15.

Amended by Chapter 388, 2009 General Session

10-18-304 Eminent domain.

A municipality may not exercise its power of eminent domain to condemn plant and equipment of a private provider for the purpose of providing to a subscriber:

- (1) a cable television service; or
- (2) a public telecommunications service.

Enacted by Chapter 83, 2001 General Session

10-18-305 Quality of service standards.

- (1) A municipality that provides a cable television service or a public telecommunications service shall adopt an ordinance governing the quality of service the municipality shall provide to its subscribers.
- (2) The ordinance required by Subsection (1) shall:
 - (a) be competitively neutral; and
 - (b) contain standards that are substantially similar to the standards imposed on private providers operating within the geographic boundaries of the municipality under:
 - (i) the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq.;
 - (ii) the Telecommunications Act of 1996, Pub. L. 104-104;
 - (iii) Title 54, Public Utilities;
 - (iv) regulations issued by the Federal Communications Commission under the statutes listed in Subsections (2)(b)(i) and (ii); and
 - (v) rules made by the Public Service Commission of Utah under Title 54, Public Utilities.

Enacted by Chapter 83, 2001 General Session

10-18-306 Enforcement and appeal.

- (1) Before a person that is or is likely to have a substantial interest affected by a municipality's violation of this chapter may file an action in district court for violation of this chapter, that person shall file a written complaint with the municipality in accordance with this section.
- (2)
 - (a) A municipality that provides a cable television service or a public telecommunications service shall enact an ordinance establishing a procedure for the filing and resolution of complaints relating to the municipality providing:
 - (i) a cable television service; or
 - (ii) a public telecommunications service.
 - (b) The procedure required by Subsection (2)(a) shall:
 - (i) permit any person described in Subsection (1) to file a complaint including:
 - (A) an individual subscriber; or
 - (B) a private provider that competes with the municipality in the geographic boundaries of the municipality;
 - (ii) establish an expedited process that requires within 45 days after the date the complaint is filed:

- (A) that a hearing be held, unless the parties to the proceeding waive the requirement of a hearing; and
 - (B) the issuance of a final decision; and
 - (iii) provide that failure to render a decision within the time allotted shall be treated as an adverse decision for purposes of appeal.
- (3) Appeal of an adverse decision from the municipality may be taken to the district court for a de novo proceeding.

Enacted by Chapter 83, 2001 General Session

Chapter 19

Municipal Electric Utility Carbon Emission Reduction Act

Part 1

General Provisions

10-19-101 Title.

This chapter is known as the "Municipal Electric Utility Carbon Emission Reduction Act."

Enacted by Chapter 374, 2008 General Session

10-19-102 Definitions.

As used in this chapter:

- (1) "Adjusted retail electric sales" means the total kilowatt-hours of retail electric sales of a municipal electric utility to customers in this state in a calendar year, reduced by:
 - (a) the amount of those kilowatt-hours attributable to electricity generated or purchased in that calendar year from qualifying zero carbon emissions generation and qualifying carbon sequestration generation;
 - (b) the amount of those kilowatt-hours attributable to electricity generated or purchased in that calendar year from generation located within the geographic boundary of the Western Electricity Coordinating Council that derives its energy from one or more of the following but that does not satisfy the definition of a renewable energy source or that otherwise has not been used to satisfy Subsection 10-19-201(1):
 - (i) wind energy;
 - (ii) solar photovoltaic and solar thermal energy;
 - (iii) wave, tidal, and ocean thermal energy;
 - (iv) except for combustion of wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass byproducts, including:
 - (A) organic waste;
 - (B) forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce wildfire risk;
 - (C) agricultural residues;
 - (D) dedicated energy crops; and

- (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters, or municipal solid waste;
- (v) geothermal energy;
- (vi) hydro-electric energy; or
- (vii) waste gas and waste heat capture or recovery; and
- (c) the number of kilowatt-hours attributable to reductions in retail sales in that calendar year from activities or programs promoting electric energy efficiency or conservation or more efficient management of electric energy load.
- (2) "Amount of kilowatt-hours attributable to electricity generated or purchased in that calendar year from qualifying carbon sequestration generation," for qualifying carbon sequestration generation, means the kilowatt-hours supplied by a facility during the calendar year multiplied by the ratio of the amount of carbon dioxide captured from the facility and sequestered to the sum of the amount of carbon dioxide captured from the facility and sequestered plus the amount of carbon dioxide emitted from the facility during the same calendar year.
- (3) "Banked renewable energy certificate" means a bundled or unbundled renewable energy certificate that is:
 - (a) not used in a calendar year to comply with this part or with a renewable energy program in another state; and
 - (b) carried forward into a subsequent year.
- (4) "Bundled renewable energy certificate" means a renewable energy certificate for qualifying electricity that is acquired:
 - (a) by a municipal electric utility by a trade, purchase, or other transfer of electricity that includes the renewable energy attributes of, or certificate that is issued for, the electricity; or
 - (b) by a municipal electric utility by generating the electricity for which the renewable energy certificate is issued.
- (5) "Commission" means the Public Service Commission.
- (6) "Municipal electric utility" means any municipality that owns, operates, controls, or manages a facility that provides electric power for a retail customer, whether domestic, commercial, industrial, or otherwise.
- (7) "Qualifying carbon sequestration generation" means a fossil-fueled generating facility located within the geographic boundary of the Western Electricity Coordinating Council that:
 - (a) becomes operational or is retrofitted on or after January 1, 2008; and
 - (b) reduces carbon dioxide emissions into the atmosphere through permanent geological sequestration or through other verifiably permanent reductions in carbon dioxide emissions through the use of technology.
- (8) "Qualifying electricity" means electricity generated on or after January 1, 1995 from a renewable energy source if:
 - (a)
 - (i) the renewable energy source is located within the geographic boundary of the Western Electricity Coordinating Council; or
 - (ii) the qualifying electricity is delivered to the transmission system of a municipal electric utility or a delivery point designated by the municipal electric utility for the purpose of subsequent delivery to the municipal electric utility; and
 - (b) the renewable energy attributes of the electricity are not traded, sold, transferred, or otherwise used to satisfy another state's renewable energy program.
- (9) "Qualifying zero carbon emissions generation":
 - (a) means a generation facility located within the geographic boundary of the Western Electricity Coordinating Council that:

- (i) becomes operational on or after January 1, 2008; and
 - (ii) does not produce carbon as a byproduct of the generation process;
 - (b) includes generation powered by nuclear fuel; and
 - (c) does not include renewable energy sources used to satisfy a target established under Section 10-19-201.
- (10) "Renewable energy certificate" means a certificate issued in accordance with the requirements of Sections 10-19-202 and 54-17-603.
- (11) "Renewable energy source" means:
- (a) an electric generation facility or generation capability or upgrade that becomes operational on or after January 1, 1995 that derives its energy from one or more of the following:
 - (i) wind energy;
 - (ii) solar photovoltaic and solar thermal energy;
 - (iii) wave, tidal, and ocean thermal energy;
 - (iv) except for combustion of wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass byproducts, including:
 - (A) organic waste;
 - (B) forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce wildfire risk;
 - (C) agricultural residues;
 - (D) dedicated energy crops; and
 - (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters, or municipal solid waste;
 - (v) geothermal energy located outside the state;
 - (vi) waste gas and waste heat capture or recovery whether or not it is renewable, including methane gas from:
 - (A) an abandoned coal mine; or
 - (B) a coal degassing operation associated with a state-approved mine permit;
 - (vii) efficiency upgrades to a hydroelectric facility, without regard to the date upon which the facility became operational, if the upgrades become operational on or after January 1, 1995;
 - (viii) a compressed air energy storage process, if:
 - (A) the process used to compress the air is a renewable energy source and the associated renewable energy certificates are retired for the purpose of the compressed air energy storage process; or
 - (B) equivalent renewable energy certificates are obtained and retired for the purpose of the compressed air energy storage process; or
 - (ix) municipal solid waste;
 - (b) any of the following:
 - (i) up to 50 average megawatts of electricity per year per municipal electric utility from a certified low-impact hydroelectric facility, without regard to the date upon which the facility becomes operational, if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995, by a national certification organization;
 - (ii) geothermal energy if located within the state, without regard to the date upon which the facility becomes operational; and
 - (iii) hydroelectric energy if located within the state, without regard to the date upon which the facility becomes operational;
 - (c) hydrogen gas derived from any source of energy described in Subsection (11)(a) or (b);

- (d) if an electric generation facility employs multiple energy sources, that portion of the electricity generated that is attributable to energy sources described in Subsections (11)(a) through (c); and
- (e) any of the following located in the state and owned by a user of energy:
 - (i) a demand side management measure, as defined by Subsection 54-7-12.8(1) with the quantity of renewable energy certificates to which the user is entitled determined by the equivalent energy saved by the measure;
 - (ii) a solar thermal system that reduces the consumption of fossil fuels, with the quantity of renewable energy certificates to which the user is entitled determined by the equivalent kilowatt-hours saved, except to the extent the commission determines otherwise with respect to net-metered energy;
 - (iii) a solar photovoltaic system that reduces the consumption of fossil fuels with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the system, except to the extent the commission determines otherwise with respect to net-metered energy;
 - (iv) a hydroelectric or geothermal facility, with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the facility, except to the extent the commission determines otherwise with respect to net-metered energy;
 - (v) a waste gas or waste heat capture or recovery system other than from a combined cycle combustion turbine that does not use waste gas or waste heat, with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the system, except to the extent the commission determines otherwise with respect to net-metered energy; and
 - (vi) the station use of solar thermal energy, solar photovoltaic energy, hydroelectric energy, geothermal energy, waste gas, or waste heat capture and recovery.
- (12) "Unbundled renewable energy certificate" means a renewable energy certificate associated with:
 - (a) qualifying electricity that is acquired by a municipal electric utility or other person by trade, purchase, or other transfer without acquiring the electricity for which the certificate was issued; or
 - (b) activities listed in Subsection (11)(e).

Amended by Chapter 119, 2010 General Session

Amended by Chapter 125, 2010 General Session

Amended by Chapter 268, 2010 General Session

Part 2

Renewable Energy Provisions

10-19-201 Target amount of qualifying electricity -- Renewable energy certificate -- Cost-effectiveness.

- (1)
 - (a) To the extent that it is cost-effective to do so, beginning in 2025 the annual retail electric sales in this state of each municipal electric utility shall consist of qualifying electricity or renewable energy certificates in an amount equal to at least 20% of adjusted retail electric sales.

- (b) The amount under Subsection (1)(a) is computed based upon adjusted retail sales for the calendar year commencing 36 months before the first day of the year for which the target calculated under Subsection (1)(a) applies.
- (c) Notwithstanding Subsections (1)(a) and (b) an increase in the annual target from one year to the next is limited to the greater of:
 - (i) 17,500 megawatt-hours; or
 - (ii) 20% of the prior year's amount under Subsections (1)(a) and (b).
- (2) Cost-effectiveness under Subsection (1) is determined using any criteria applicable to the municipal electric utility's acquisition of a significant energy resource established by the municipality's legislative body.
- (3) This section does not require a municipal electric utility to:
 - (a) substitute qualifying electricity for electricity from a generation source owned or contractually committed, or from a contractual commitment for a power purchase;
 - (b) enter into any additional electric sales commitment or any other arrangement for the sale or other disposition of electricity that is not already, or would not be, entered into by the municipal electric utility; or
 - (c) acquire qualifying electricity in excess of its adjusted retail electric sales.
- (4) A municipal electrical corporation may combine the following to meet Subsection (1):
 - (a) qualifying electricity from a renewable energy source owned by the municipal electric utility;
 - (b) qualifying electricity acquired by the municipal electric utility through trade, power purchase, or other transfer; and
 - (c) a bundled or unbundled renewable energy certificate, including a banked renewable energy certificate.
- (5) To meet Subsection (1), a municipal electric utility may also count:
 - (a) qualifying electricity generated or acquired or renewable energy certificates acquired for a program permitting the municipal electric utility's customers to voluntarily contribute to a renewable energy source; and
 - (b) electricity allocated to this state that is produced by a hydroelectric facility becoming operational after December 31, 2007 if the hydroelectric facility is located in any state in which the municipal electric utility, or the interlocal entity with which the municipal electric utility has a contract, provides electric service.

Enacted by Chapter 374, 2008 General Session

10-19-202 Renewable energy certificate -- Use to satisfy other requirements.

- (1) A municipal electric utility may buy, sell, trade, or otherwise transfer a renewable energy certificate issued or recognized under Section 54-17-603.
- (2) For the purpose of satisfying Subsection 10-19-201(1) and the issuance of a renewable energy certificate under Section 54-17-603:
 - (a) a renewable energy source located in this state that derives its energy from solar photovoltaic and solar thermal energy shall be credited for 2.4 kilowatt-hours of qualifying electricity for each 1.0 kilowatt-hour generated; and
 - (b) if two or more municipal electric utilities jointly own a renewable energy resource, each municipal electric utility shall be credited with 1.0 kilowatt-hour of qualifying electricity for 1.0 kilowatt-hour of the renewable energy resource allocated to the municipal electric utility by contract, unless the contract otherwise provides.
- (3) A renewable energy certificate:
 - (a) may be used only once to satisfy Subsection 10-19-201(1);

- (b) may be used to satisfy Subsection 10-19-201(1) and the qualifying electricity on which the renewable energy certificate is based may be used to satisfy any federal renewable energy requirement; and
- (c) may not be used if it has been used to satisfy any other state's renewable energy requirement.

Enacted by Chapter 374, 2008 General Session

Part 3

Administrative Provisions

10-19-301 Plans and reports.

- (1) A municipal electric utility shall develop and maintain a plan for implementing Subsection 10-19-201(1).
- (2) A progress report concerning a plan under Subsection (1) shall be filed with the municipality's legislative body by January 1 of each of the years 2010, 2015, 2020, and 2024.
- (3) The progress report under Subsection (2) shall contain:
 - (a) the actual and projected amount of qualifying electricity through 2025;
 - (b) the source of qualifying electricity;
 - (c) an estimate of the cost of achieving the target;
 - (d) a discussion of conditions impacting the renewable energy source and qualifying electricity markets; and
 - (e) any recommendation for a suggested legislative or program change.
- (4) The plan and progress report required by Subsections (1) and (2) may include procedures that will be used by the municipal electric utility to identify and select any cost-effective renewable energy resource and qualifying electricity.
- (5) By July 1, 2026, the municipal electric utility shall file a final progress report demonstrating:
 - (a) how Subsection 10-19-201(1) is satisfied for the year 2025; or
 - (b) the reason why Subsection 10-19-201(1) is not satisfied for the year 2025, if it is not satisfied.
- (6) The plan and any progress report filed under this section shall be publicly available at the municipal legislative body's office.

Enacted by Chapter 374, 2008 General Session

10-19-302 Municipal authority -- Commission authority.

- (1) The municipal legislative body may adopt procedures necessary to implement this chapter.
- (2) Nothing in this chapter authorizes the commission to exercise any power over a municipal electric utility's electrical generation, demand-side management program, or other operation.

Enacted by Chapter 374, 2008 General Session